

ASSEMBLY, No. 50

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblymen GIBSON, Bucco and Cottrell

1 AN ACT concerning solid waste management, and amending,  
2 supplementing and repealing parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. (New section) Sections 1 through 21 inclusive of this act shall  
8 be known and may be cited as the "Solid Waste Management and  
9 Environmental Investment Cost Recovery Act."

10

11 2. (New section) The Legislature finds and declares that in  
12 response to the need to protect and enhance the quality of the State's  
13 environment, and to provide for the environmentally-sound and proper  
14 collection, recycling and disposal of solid waste, the Legislature made  
15 a determination over a quarter-century ago that these goals would be  
16 best achieved through the development of a comprehensive Statewide  
17 solid waste management strategy; that in furtherance of these  
18 environmental goals and policies, and to provide for a regulatory  
19 framework for the implementation thereof on a Statewide basis, the  
20 Legislature enacted the "Solid Waste Management Act," P.L.1970,  
21 c.39 (C.13:1E-1 et seq.), which designated every county and the  
22 Hackensack Meadowlands District as a solid waste management  
23 district for planning and implementation purposes and required each  
24 county, or a public authority designated by the governing body of the  
25 county, to develop, adopt and implement a district solid waste  
26 management plan for the collection, disposal or recycling of solid  
27 waste generated within its geographic boundaries.

28

29 The Legislature further finds and declares that in furtherance of this  
30 State mandate, each county or public authority has entered into  
31 contracts, acquired real and personal property, incurred administrative  
32 and other operating expenses, and issued debt obligations, and the  
33 Department of Environmental Protection has issued waste flow orders  
34 requiring constituent municipalities and local haulers to use designated  
in-county solid waste facilities for solid waste processing or disposal,

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 all in furtherance of district solid waste management plan  
2 implementation.

3 The Legislature further finds and declares that the ability of each  
4 county or public authority to fulfill its lawful responsibilities with  
5 respect to district solid waste management plan implementation,  
6 including the ability to raise revenues sufficient to provide funds for  
7 payment of the costs of developing self-sufficient solid waste  
8 management systems, has been predicated on its legal authority to  
9 direct the flow of solid waste generated within the geographic  
10 boundaries of the county to designated solid waste facilities, thereby  
11 ensuring the economic viability of these facilities; and that waste flow  
12 control by counties and public authorities has been supported by  
13 statute, rules and regulations adopted by the Department of  
14 Environmental Protection, and franchises awarded by the Board of  
15 Public Utilities.

16 The Legislature further finds and declares that in the case of C &  
17 A Carbone, Inc. v. Town of Clarkstown, N.Y. the U.S. Supreme Court  
18 has held that, without unambiguous congressional authorization, a  
19 state or local government's designation of the destination to which  
20 haulers must transport solid waste for processing or disposal is a  
21 violation of the Commerce Clause of the U.S. Constitution; that the  
22 Carbone decision has been reaffirmed by the Atlantic Coast Demolition  
23 & Recycling, Inc., et al. v. Board of Chosen Freeholders of Atlantic  
24 County et al. decision, which held that New Jersey's solid waste  
25 management system, including the Department of Environmental  
26 Protection's waste flow rules, interferes with interstate commerce, and  
27 that the State cannot direct municipalities or haulers to designated  
28 solid waste facilities in New Jersey due to the unconstitutional nature  
29 of New Jersey's solid waste management system, including the waste  
30 flow rules; and that the Atlantic Coast ruling on July 15, 1996 gives  
31 the State, counties and public authorities two years from that date to  
32 implement a constitutionally acceptable system for solid waste  
33 management.

34 The Legislature further finds and declares that counties and public  
35 authorities must be able, under all circumstances, to collect revenues  
36 sufficient to recover the environmental investment costs incurred in  
37 developing and implementing State-mandated district solid waste  
38 management plans, whether through the acquisition, construction and  
39 operation of solid waste facilities or through execution of interdistrict  
40 agreements or implementation of solid waste collection, disposal or  
41 recycling programs.

42 The Legislature therefore determines that it is the public policy of  
43 the State of New Jersey to authorize and empower every county and  
44 concerned public authority to establish and implement a program to  
45 recover the environmental investment costs associated with developing  
46 and implementing self-sufficient solid waste management systems,

1 including debt service on bonds, or payment for solid waste collection,  
2 disposal or recycling services under lawfully executed contracts or  
3 agreements; and that it is necessary to revise the solid waste  
4 management statutes to reflect these changes, all as hereinafter  
5 provided.

6

7 3. (New section) As used in sections 1 through 21 of P.L. ,  
8 c. (C. )(pending in the Legislature as this bill):

9 "Constituent municipality" means any municipality located within  
10 the territorial boundaries of a county that has created a public  
11 authority; any municipality included within the jurisdiction of a public  
12 authority pursuant to law; or any combination thereof.

13 "Contracting unit" means a contracting unit as defined in section 2  
14 of P.L.1985, c.38 (C.13:1E-137) that has awarded a contract to a  
15 qualified vendor pursuant to the provisions of P.L.1985, c.38  
16 (C.13:1E-136 et al.); or a contracting unit that has awarded a contract  
17 pursuant to the "Local Public Contracts Law," P.L.1971, c.198  
18 (C.40A:11-1 et seq.) or any other contracting procedure permitted by  
19 law for the design, financing, construction, operation, or maintenance,  
20 or any combination thereof, of a resource recovery facility, or for the  
21 provision of resource recovery services.

22 "Cost" means, in addition to the usual connotations thereof, any  
23 expenses related to: (1) the planning, acquisition, construction,  
24 operation and maintenance of solid waste facilities, including debt  
25 service on bonds issued to finance solid waste facilities; (2) the  
26 fulfillment of interdistrict agreements; (3) the establishment and  
27 implementation of solid waste management programs; (4) the payment  
28 of solid waste taxes; or (5) the payment of host municipality benefits.

29 "Department" means the Department of Environmental Protection.

30 "Environmental investments" means any: (1) solid waste facilities;  
31 (2) solid waste management programs; (3) obligation to fulfill  
32 interdistrict agreements; (4) obligation to pay solid waste taxes; or (5)  
33 obligation to pay host municipality benefits.

34 "Environmental investment charges" means the rates, fees or other  
35 charges imposed and collected by a public authority or county for the  
36 payment of environmental investment costs.

37 "Environmental investment costs" means the cost of environmental  
38 investments.

39 "Host municipality benefits" means the payment of annual economic  
40 benefits made to host municipalities required pursuant to section 19 of  
41 P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987, c.449 (C.13:1E-  
42 28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of P.L.1985, c.38  
43 (C.48:13A-5.1).

44 "Interdistrict agreement" means a contract or agreement negotiated  
45 between the concerned boards of chosen freeholders, the Hackensack  
46 Commission, a public authority, or any combination thereof, for the

1 shared use of registered solid waste facilities.

2 "Municipal solid waste stream" means all residential, commercial  
3 and institutional solid waste generated within the boundaries of any  
4 municipality.

5 "Out-of-county solid waste" means any solid waste accepted for  
6 disposal at a registered solid waste facility which was generated  
7 outside of the boundaries of the receiving county.

8 "Public authority" means a municipal or county utilities authority  
9 created pursuant to the "municipal and county utilities authorities  
10 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement  
11 authority created pursuant to the "county improvement authorities  
12 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control  
13 financing authority created pursuant to the "New Jersey Pollution  
14 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any  
15 other public body corporate and politic created for solid waste  
16 management purposes in any county, pursuant to the provisions of any  
17 law.

18 "Qualified vendor" means a vendor that has been awarded a  
19 contract for the design, financing, construction, operation, or  
20 maintenance, or any combination thereof, of a resource recovery  
21 facility, or for the provision of resource recovery services, which  
22 contract has been approved pursuant to section 28 of P.L.1985, c.38  
23 (C.13:1E-163); or a vendor that has been awarded a contract pursuant  
24 to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
25 seq.) or any other contracting procedure permitted by law for the  
26 design, financing, construction, operation, or maintenance, or any  
27 combination thereof, of a resource recovery facility, or for the  
28 provision of resource recovery services.

29 "Registered solid waste facility" means a solid waste facility for  
30 which the owner or operator thereof has received registration  
31 statement and engineering design approval from the department  
32 pursuant to section 5 of 1970, c.39 (C.13:1E-5).

33 "Regular solid waste collection service" means the scheduled  
34 pick-up and removal of solid waste from residential, commercial or  
35 institutional premises located within the boundaries of any municipality  
36 at least once a week.

37 "Resource recovery facility" means a solid waste facility  
38 constructed and operated for the incineration of solid waste for energy  
39 production and the recovery of metals and other materials for reuse;  
40 or a mechanized composting facility, or any other facility constructed  
41 or operated for the collection, separation, recycling, and recovery of  
42 metals, glass, paper, and other materials for reuse or for energy  
43 production.

44 "Resource recovery services agreement" means a contract or  
45 agreement negotiated between a qualified vendor and a public  
46 authority or county for the use of a resource recovery facility or the

1 provision of resource recovery services.

2 "Responsible solid waste generator" means any property owner,  
3 tenant or occupant of any single-family residential dwelling or multiple  
4 dwelling, or the owner of any commercial or institutional building or  
5 structure located within the boundaries of any municipality, who  
6 generates solid waste at those premises.

7 "Solid waste" means garbage, refuse, and other discarded materials  
8 resulting from industrial, commercial and agricultural operations, and  
9 from domestic and community activities, and shall include all other  
10 waste materials including liquids, except for solid animal and vegetable  
11 wastes collected by swine producers licensed by the State Department  
12 of Agriculture to collect, prepare and feed such wastes to swine on  
13 their own farms.

14 "Solid waste collection" means the activity related to pick-up and  
15 transportation of solid waste from its source or location to a solid  
16 waste facility or other destination.

17 "Solid waste collector" means a person engaged in the collection of  
18 solid waste and registered pursuant to sections 4 and 5 of P.L.1970,  
19 c.39 (C.13:1E-4 and 13:1E-5).

20 "Solid waste container" means a receptacle, container or bag  
21 suitable for the depositing of solid waste.

22 "Solid waste disposal" means the storage, treatment, utilization,  
23 processing, or final disposal of solid waste.

24 "Solid waste facilities" means, and includes, the plants, structures  
25 and other real and personal property acquired, constructed or operated  
26 or to be acquired, constructed or operated by, or on behalf of, a public  
27 authority or county for, or with respect to, the implementation of a  
28 district solid waste management plan required pursuant to the  
29 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
30 (C.13:1E-1 et seq.) or any other act, including transfer stations,  
31 incinerators, resource recovery facilities, sanitary landfill facilities or  
32 other plants for the disposal of solid waste, and all vehicles, equipment  
33 and other real and personal property and rights therein and  
34 appurtenances necessary or useful and convenient for the collection or  
35 disposal of solid waste in a sanitary manner.

36 "Solid waste management program" means any program established  
37 by, or on behalf of, a public authority or county for sanitary landfill  
38 facility closure, enforcement, household hazardous waste management,  
39 recycling or other purposes related to the implementation of a district  
40 solid waste management plan required pursuant to the provisions of  
41 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
42 seq.) or a district recycling plan required pursuant to section 3 of  
43 P.L.1987, c.102 (C.13:1E-99.13).

44 "Solid waste services agreement" means a contract or agreement  
45 negotiated between a public authority or county that owns or operates  
46 a registered solid waste facility and a municipal governing body for the

1 use of the registered solid waste facility by the municipality for the  
2 disposal of solid waste from its municipal solid waste stream.

3 "Solid waste taxes" means the taxes imposed pursuant to section 4  
4 of P.L.1981, c.278 (C.13:1E-95), section 5 of P.L.1981, c.306  
5 (C.13:1E-104) or section 3 of P.L.1985, c.38 (C.13:1E-138).

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7 4. (New section) Any municipality may provide for the collection  
8 or disposal of all residential, commercial or institutional solid waste  
9 generated within its municipal boundaries.

10 a. A municipal governing body, in its discretion, may:

11 (1) Establish and operate a municipal service system for solid  
12 waste collection;

13 (2) Award a contract for regular solid waste collection service to  
14 a solid waste collector pursuant to the provisions of the "Local Public  
15 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); or

16 (3) Permit responsible solid waste generators to contract with a  
17 solid waste collector for regular solid waste collection service on an  
18 individual basis.

19 b. A municipal governing body, in its discretion, may:

20 (1) Negotiate a solid waste services agreement with a public  
21 authority or county;

22 (2) Award a contract for solid waste disposal to any person  
23 lawfully providing solid waste disposal service pursuant to the  
24 provisions of the "Local Public Contracts Law," P.L.1971, c.198  
25 (C.40A:11-1 et seq.); or

26 (3) Permit responsible solid waste generators to contract with any  
27 person lawfully providing solid waste disposal service on an individual  
28 basis.

29

30 5. (New section) A municipal governing body may establish and  
31 operate a municipal service system for solid waste collection.

32 a. Every municipal service system shall:

33 (1) In the case of single-family residential housing or multi-family  
34 residential housing, include the provision of regular solid waste  
35 collection service; or

36 (2) In the case of any commercial or institutional building or  
37 structure located within the boundaries of the municipality, permit the  
38 responsible solid waste generator to contract with a solid waste  
39 collector for regular solid waste collection service on an individual  
40 basis.

41 A municipal governing body that establishes a municipal service  
42 system for solid waste collection shall adopt a municipal service  
43 ordinance.

44 b. Every municipal service ordinance, as appropriate, shall:

45 (1) Specify the registered solid waste facility to be utilized by the  
46 municipality for the disposal of solid waste from its municipal solid

- 1 waste stream pursuant to the terms and conditions of a solid waste  
2 services agreement;
- 3 (2) Identify the designated out-of-state disposal site to be utilized  
4 by the municipality for the disposal of solid waste from its municipal  
5 solid waste stream, and produce evidence that the designated disposal  
6 site is permitted by the appropriate state regulatory agency having  
7 jurisdiction over solid waste management to accept out-of-state solid  
8 waste for disposal, and is in conformance with all relevant Federal or  
9 state laws, rules or regulations;
- 10 (3) Provide for the publishing of a consolidated schedule of the  
11 rates, fees or charges to be charged by the municipality for solid waste  
12 collection, including a separate section for:
- 13 (a) the rates, fees or charges to be charged by the municipality for  
14 regular solid waste collection service;
- 15 (b) the solid waste charges received at the registered solid waste  
16 facility for solid waste disposal, including any portion of the rates, fees  
17 or charges allocated for environmental investment charges; or
- 18 (c) the solid waste charges received at the designated out-of-state  
19 disposal site for solid waste disposal;
- 20 (4) Provide for the manner of payment of all rates, fees or charges  
21 for solid waste collection or solid waste disposal.
- 22 c. Every municipal service ordinance shall include:
- 23 (1) In the case of single-family residential housing, a requirement  
24 that each responsible solid waste generator place solid waste generated  
25 at those premises in solid waste containers for collection in the manner  
26 provided by the ordinance;
- 27 (2) In the case of multi-family residential housing, a requirement  
28 that the responsible solid waste generator place solid waste generated  
29 at those premises in solid waste containers for collection in the manner  
30 provided by the ordinance; and
- 31 (3) In the case of any commercial or institutional building or  
32 structure located within the boundaries of the municipality, a  
33 requirement that the responsible solid waste generator place solid  
34 waste generated at those premises in solid waste containers for  
35 collection in the manner provided by the ordinance. A municipal  
36 governing body may exempt the owner of any commercial or  
37 institutional building or structure from the provisions of the municipal  
38 service ordinance.
- 39
- 40 6. (New section) A municipal governing body may establish a  
41 municipal contract system for solid waste collection by awarding a  
42 contract for regular solid waste collection service to a solid waste  
43 collector pursuant to the provisions of the "Local Public Contracts  
44 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).
- 45 a. Every municipal contract system shall:
- 46 (1) In the case of single-family residential housing or multi-family

1 residential housing, include the provision of regular solid waste  
2 collection service; and

3 (2) In the case of any commercial or institutional building or  
4 structure located within the boundaries of the municipality, permit the  
5 responsible solid waste generator to contract with a solid waste  
6 collector for regular solid waste collection service on an individual  
7 basis.

8 A municipal governing body that establishes a municipal contract  
9 system for solid waste collection shall adopt a municipal contract  
10 ordinance.

11 b. Every municipal contract ordinance, as appropriate, shall:

12 (1) Specify the registered solid waste facility to be utilized by the  
13 solid waste collector for solid waste disposal pursuant to the terms and  
14 conditions of a solid waste services agreement;

15 (2) Identify the designated out-of-state disposal site to be utilized  
16 by the solid waste collector for solid waste disposal, and require the  
17 solid waste collector to certify that the designated disposal site is  
18 permitted by the appropriate state regulatory agency having  
19 jurisdiction over solid waste management to accept out-of-state solid  
20 waste for disposal, and is in conformance with all relevant Federal or  
21 state laws, rules or regulations;

22 (3) Provide for the publishing of a consolidated schedule of the  
23 rates, fees or charges to be charged by the solid waste collector,  
24 including a separate section for:

25 (a) the rates, fees or charges to be charged for regular solid waste  
26 collection service;

27 (b) the solid waste charges received at the registered solid waste  
28 facility for solid waste disposal, including any portion of the rates, fees  
29 or charges allocated for environmental investment charges; or

30 (c) the solid waste charges received at the designated out-of-state  
31 disposal site for solid waste disposal;

32 (4) Provide for the manner of payment of all rates, fees or charges  
33 for solid waste collection or solid waste disposal.

34 c. Every municipal contract ordinance shall include:

35 (1) In the case of single-family residential housing, a requirement  
36 that each responsible solid waste generator place solid waste generated  
37 at those premises in solid waste containers for collection in the manner  
38 provided by the ordinance;

39 (2) In the case of multi-family residential housing, a requirement  
40 that the responsible solid waste generator place solid waste generated  
41 at those premises in solid waste containers for collection in the manner  
42 provided by the ordinance; and

43 (3) In the case of any commercial or institutional building or  
44 structure located within the boundaries of the municipality, a  
45 requirement that the responsible solid waste generator place solid  
46 waste generated at those premises in solid waste containers for

1 collection in the manner provided by the ordinance. A municipal  
2 governing body may exempt the owner of any commercial or  
3 institutional building or structure from the provisions of the municipal  
4 contract ordinance.

5  
6 7. (New section) As a condition of a contract for regular solid  
7 waste collection service awarded to a solid waste collector pursuant  
8 to the provisions of the "Local Public Contracts Law," P.L.1971,  
9 c.198 (C.40A:11-1 et seq.), any municipal governing body that has  
10 negotiated a solid waste services agreement with a public authority or  
11 county pursuant to section 8 of P.L. , c. (C. )(pending  
12 in the Legislature as this bill) shall require the solid waste collector to  
13 utilize the registered solid waste facility that has been selected by the  
14 municipality for the disposal of solid waste from its municipal solid  
15 waste stream pursuant to the terms and conditions of the solid waste  
16 services agreement.

17  
18 8. (New section) A municipal governing body may negotiate a  
19 solid waste services agreement with any public authority or county  
20 that owns or operates a registered solid waste facility. Every solid  
21 waste services agreement shall include, but need not be limited to,  
22 provisions concerning:

23 a. The solid waste charges received at the registered solid waste  
24 facility for solid waste disposal, including any portion of the rates, fees  
25 or charges allocated for environmental investment charges; and

26 b. The formulas to be used to determine the solid waste charges  
27 for solid waste disposal, or environmental investment charges, and the  
28 methodology or methodologies used to develop these formulas.

29  
30 9. (New section) Any solid waste services agreement negotiated  
31 between a municipal governing body and a public authority or county  
32 pursuant to section 8 of P.L. , c. (C. )(pending in the  
33 Legislature as this bill) may include optional arrangements for the  
34 provision of other solid waste services, including, but not limited to:  
35 solid waste collection; the collection, processing, disposition or  
36 marketing of designated recyclable materials as defined in section 2 of  
37 P.L.1987, c.102 (C.13:1E-99.12); or a district household hazardous  
38 waste management program.

39  
40 10. (New section) A municipal governing body may award a  
41 contract for solid waste disposal to any person lawfully providing solid  
42 waste disposal service pursuant to the provisions of the "Local Public  
43 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). Every contract  
44 for the use of a designated out-of-state disposal site awarded to a  
45 person lawfully providing solid waste disposal service by a municipal  
46 governing body pursuant to the provisions of the "Local Public

1 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) shall include,  
2 but need not be limited to, provisions concerning:

3 a. The solid waste charges received at the designated out-of-state  
4 disposal site for solid waste disposal; and

5 b. The formulas to be used to determine the charges, rates or fees  
6 to be charged for solid waste disposal services, and the methodology  
7 or methodologies used to develop these formulas.

8

9 11. (New section) a. The provisions of any other law to the  
10 contrary notwithstanding, every public authority or county that owns  
11 or operates a registered solid waste facility is authorized to calculate,  
12 charge and collect environmental investment charges to recover the  
13 environmental investment costs of the public authority or county.

14 Environmental investment charges may be imposed and collected by  
15 a public authority or county: (1) as the environmental investment cost  
16 component of a consolidated bill comprised of solid waste disposal  
17 charges and environmental investment charges collected from users at  
18 the registered solid waste facility; (2) as an item in the municipal  
19 budget or county budget, or any combination thereof, for the payment  
20 of environmental investment costs; or (3) in any other manner  
21 reasonably established by the public authority or county.

22 b. Every public authority that owns or operates a registered solid  
23 waste facility may enter into an agreement with the governing body of  
24 the county wherein the registered solid waste facility is located  
25 providing for the assumption by the county of the responsibility for the  
26 collection of environmental investment charges.

27 c. Environmental investment charges may be collected by a public  
28 authority or county, without limitation, from:

29 (1) every solid waste generator included within the jurisdiction of  
30 the public authority or county, regardless of whether a particular solid  
31 waste generator utilizes the registered solid waste facility for solid  
32 waste disposal, through the implementation of a unit charge based  
33 upon: (a) the average annual amount of solid waste generated by a  
34 particular solid waste generator, as measured in tons, during the  
35 previous five years; (b) the average annual amount of solid waste  
36 accepted for disposal at the registered solid waste facility from a  
37 particular solid waste generator, as measured in tons, during the  
38 previous five years; or (c) any other criteria reasonably established by  
39 the public authority or county;

40 (2) every constituent municipality that utilizes or has previously  
41 utilized the registered solid waste facility, through the implementation  
42 of an assessment against constituent municipalities based upon: (a) the  
43 average annual aggregate amount of solid waste generated within the  
44 boundaries of a particular constituent municipality from all sources of  
45 generation, as measured in tons, during the previous five years; (b)  
46 the average annual amount of solid waste accepted for disposal at the

1 registered solid waste facility from all sources of generation within the  
2 boundaries of a particular constituent municipality, as measured in  
3 tons, during the previous five years; or (c) any other criteria  
4 reasonably established by the public authority or county;

5 (3) the county wherein the registered solid waste facility is located,  
6 through the implementation of an assessment against the county based  
7 upon: (a) the average annual aggregate amount of solid waste  
8 generated within the boundaries of the county from all sources of  
9 generation, as measured in tons, during the previous five years; (b) the  
10 average annual amount of solid waste accepted for disposal at the  
11 registered solid waste facility from all sources of generation within the  
12 boundaries of the county, as measured in tons, during the previous five  
13 years; or (c) any other criteria reasonably established by the public  
14 authority or county;

15 (4) any other county or public authority that has entered into an  
16 interdistrict agreement with the public authority or county that owns  
17 or operates the registered solid waste facility for the disposal of out-  
18 of-county solid waste, through the implementation of an assessment  
19 against the sending county based upon: (a) the average annual  
20 aggregate amount of out-of-county solid waste generated within the  
21 boundaries of the sending county from all sources of generation, as  
22 measured in tons, during the previous five years; (b) the average  
23 annual amount of out-of-county solid waste accepted for disposal at  
24 the registered solid waste facility from all sources of generation within  
25 the boundaries of the sending county, as measured in tons, during the  
26 previous five years; or (c) any other criteria reasonably established by  
27 the public authority or county.

28

29 12. (New section) a. Every public authority, or county that has  
30 assumed responsibility for the collection of environmental investment  
31 charges pursuant to subsection b. of section 11 of P.L. , c.

32 (C. )(pending in the Legislature as this bill), as appropriate,  
33 shall enter into agreements on the preferred billing mechanism for the  
34 collection of environmental investment charges with the governing  
35 body of each constituent municipality.

36 b. Every public authority, or county that has assumed responsibility  
37 for the collection of environmental investment charges pursuant to  
38 subsection b. of section 11 of P.L. , c. (C. )(pending in the  
39 Legislature as this bill), as appropriate, may negotiate agreements on  
40 the preferred billing mechanism for the collection of environmental  
41 investment charges with all relevant solid waste generators, counties  
42 or public authorities.

43

44 13. (New section) a. The governing body of every constituent  
45 municipality shall establish and implement a billing mechanism for the  
46 collection of environmental investment charges.

1       b. The governing body of a constituent municipality may, by  
2 ordinance, determine the amount of money necessary for the collection  
3 of environmental investment charges. The ordinance shall provide that  
4 the amount so determined shall be assessed on the value of all taxable  
5 property within the constituent municipality and collected as taxes are  
6 collected and be controlled and expended by the constituent  
7 municipality for the purposes herein specified. The ordinance shall  
8 specify that any assessment made pursuant to this subsection is to be  
9 used solely to provide for the collection of environmental investment  
10 charges.

11       c. The governing body of a constituent municipality adopting an  
12 ordinance pursuant to subsection b. of this section may order and  
13 cause to be raised within the boundaries of the constituent municipality  
14 sufficient money to provide for the payment of environmental  
15 investment charges. The sum ordered to be raised shall be levied and  
16 collected at the same time and in the same manner as other municipal  
17 taxes, except that any tax levied and collected to provide for the  
18 payment of environmental investment charges shall appear as a  
19 separate item on the municipal tax bill. The collector shall pay the  
20 same to the chief fiscal officer of the constituent municipality, to be  
21 applied only to the purposes for which it is raised.

22       d. All moneys assessed and levied pursuant to this section shall be  
23 a lien upon the land against which they are assessed in the same  
24 manner that taxes are made a lien against land pursuant to Title 54 of  
25 the Revised Statutes, and the payment thereof shall be enforced within  
26 the same time and in the same manner and by the same proceedings as  
27 the payment of taxes is otherwise enforced by the Division of Taxation  
28 under Title 54 of the Revised Statutes.

29

30       14. (New section) Upon the establishment of a system to calculate,  
31 charge and collect environmental investment charges to recover the  
32 environmental investment costs of the public authority or county  
33 pursuant to section 11 of P.L.     , c.     (C.     )(pending in the  
34 Legislature as this bill), but prior to the implementation thereof, the  
35 public authority or county shall hold a public hearing thereon at least  
36 20 days after notice of the proposed implementation has been mailed  
37 to the clerk of each constituent municipality located within the  
38 boundaries of the county wherein the registered solid waste facility is  
39 located, and after publication of the notice of the proposed  
40 implementation and the time and place of the public hearing in at least  
41 two newspapers of general circulation within the county.

42

43       15. (New section) Any public authority or county that enters into  
44 an interdistrict agreement with another public authority or county for  
45 the shared use of a registered solid waste facility is authorized to  
46 calculate, charge and collect differential solid waste charges for the

1 out-of-county solid waste accepted for disposal at the registered solid  
2 waste facility from the sending public authority or county, provided  
3 that the sending public authority or county has agreed to the payment  
4 of environmental investment charges on a voluntary basis.

5  
6 16. (New section) a. Environmental investment charges may be  
7 collected by a public authority or county from any solid waste  
8 generator, constituent municipality, public authority or county  
9 enumerated in subsection c. of section 11 of P.L. , c.  
10 (C. )(pending in the Legislature as this bill) and the relevant  
11 solid waste generator, constituent municipality, public authority or  
12 county shall be liable for and shall pay the environmental investment  
13 charges to the public authority or county at the time when and place  
14 where the environmental investment charges are due and payable.

15 b. In the event that the environmental investment charges of a  
16 public authority or county with regard to any parcel of real property  
17 owned by any person, other than the State or an agency or subdivision  
18 thereof, shall not be paid as and when due, the unpaid balance thereof,  
19 and all interest accruing thereon, shall be a lien on the parcel. The lien  
20 shall be superior and paramount to the interest in the parcel of any  
21 owner, lessee, tenant, mortgagee or other person except the lien of  
22 municipal taxes and shall be on a parity with and deemed equal to the  
23 lien on the parcel of the municipality wherein the parcel is situated for  
24 taxes thereon due in the same year and not paid as and when due.  
25 Whenever the environmental investment charges, and any interest  
26 accrued thereon, shall have been fully paid to the public authority or  
27 county, the lien shall be promptly withdrawn or canceled by the public  
28 authority or county.

29 The collector or other officer of every municipality charged by law  
30 with the duty of enforcing municipal liens on real property shall  
31 enforce, in the same manner as with any other municipal lien on real  
32 property in the municipality, all environmental investment charges and  
33 the lien thereof shown in any statement filed with the collector or  
34 officer by a public authority or county pursuant to the provisions of  
35 this subsection, and shall pay over to the public authority or county the  
36 sums or a pro rata share of the sums realized upon the enforcement or  
37 liquidation of any property acquired by the municipality by virtue of  
38 the enforcement action.

39 In the event that the environmental investment charges of a public  
40 authority or county shall not be paid as and when due, notwithstanding  
41 any other remedies available to the public authority or county, the  
42 unpaid balance thereof, and any interest accrued thereon, together with  
43 attorney's fees and costs, may be recovered by the public authority or  
44 county in a civil action, and any lien on real property for the  
45 environmental investment charges, and any interest accrued thereon,  
46 may be foreclosed or otherwise enforced by the public authority or

1 county by action or suit in equity as for the foreclosure of a mortgage  
2 on the real property.

3 All rights and remedies provided in this subsection for the collection  
4 and enforcement of environmental investment charges shall be  
5 cumulative and concurrent.

6  
7 17. (New section) Any public authority or county may establish  
8 and implement a program for the inspection of all solid waste  
9 collection activities or solid waste disposal operations and a program  
10 to enforce the provisions of the system established pursuant to section  
11 11 of P.L. , c. (C. )(pending in the Legislature as this bill)  
12 for the collection of environmental investment charges, or the  
13 provisions of any interdistrict agreements, contracts or instruments  
14 executed in connection with the implementation of a district solid  
15 waste management plan or use of any registered solid waste facility.

16  
17 18. (New section) Any public authority or county is authorized to  
18 exercise the enforcement powers conferred on local boards of health  
19 or county health departments pursuant to the provisions of the  
20 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21  
21 et seq.) and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise  
22 these powers directly in the manner provided by the aforementioned  
23 acts to local boards of health or county health departments, for the  
24 purposes of enforcing the provisions of the system established  
25 pursuant to section 11 of P.L. , c. (C. )(pending in the  
26 Legislature as this bill) for the collection of environmental investment  
27 charges.

28  
29 19. (New section) The provisions of any other law to the contrary  
30 notwithstanding, any public authority or county that owns or operates  
31 a registered solid waste facility may enter into an interdistrict  
32 agreement with any other public authority or county for the shared use  
33 of a registered solid waste facility. Any interdistrict agreement shall be  
34 reflected in the district solid waste management plan adopted by the  
35 boards of chosen freeholders of each county to be served under the  
36 terms of the proposed interdistrict agreement.

37  
38 20. (New section) The provisions of any other law to the contrary  
39 notwithstanding, any public authority or county may enter into a  
40 resource recovery services agreement with a qualified vendor for the  
41 provision of resource recovery services without regard to the  
42 provisions of the "Local Public Contracts Law," P.L.1971, c.198  
43 (C.40A:11-1 et seq.).

44 a. A public authority or county shall submit any proposed resource  
45 recovery services agreement negotiated with a qualified vendor for the  
46 provision of resource recovery services to the department for review

1 and approval pursuant to the provisions of section 21 of P.L. , c.  
2 (C. ) (now before the Legislature as this bill).

3 b. Any public authority or county intending to submit a proposed  
4 resource recovery services agreement to the department for review and  
5 approval shall notify the department of its intention to submit its  
6 proposed resource recovery services agreement for review and  
7 approval at least 10 days prior to the submission.

8  
9 21. (New section) a. The department shall approve or conditionally  
10 approve the proposed resource recovery services agreement submitted  
11 for review by a public authority or county pursuant to the provisions  
12 of section 20 of P.L. , c. (C. ) (now before the Legislature as  
13 this bill) within 30 days of receipt thereof. The department shall  
14 approve the proposed resource recovery services agreement:

15 (1) if the terms of the proposed resource recovery services  
16 agreement are consistent with the district solid waste management plan  
17 adopted pursuant to the provisions of the "Solid Waste Management  
18 Act," P.L.1970, c.39 (C.13:1E-1 et seq.) by each county to be served  
19 thereunder;

20 (2) if the terms of the proposed resource recovery services  
21 agreement are consistent with the terms of an interdistrict agreement  
22 entered into between the concerned public authorities or counties;

23 (3) if the financial terms of the proposed resource recovery  
24 services agreement are in the public interest, or, where applicable,  
25 consistent with the terms of a contract relating to the concerned  
26 resource recovery facility, which contract was approved by the Board  
27 of Public Utilities pursuant to section 28 of P.L.1985, c.38  
28 (C.13:1E-163) ; and

29 (4) if the terms of the proposed resource recovery services  
30 agreement are, where applicable, consistent with the environmental  
31 and financial terms of a contract relating to the concerned resource  
32 recovery facility, which contract was approved by the department  
33 pursuant to section 28 of P.L.1985, c.38 (C.13:1E-163).

34 b. If the department conditionally approves the proposed resource  
35 recovery services agreement, it shall state in writing the revisions  
36 which the public authority or county shall make to the proposed  
37 agreement to receive approval, and the public authority or county may  
38 prepare and submit to the department a revised proposed agreement  
39 pursuant to the provisions of section 20 of P.L. , c. (C. )  
40 (now before the Legislature as this bill).

41  
42 22. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read  
43 as follows:

44 12. The department shall formulate comprehensive policies for the  
45 conservation of the natural resources of the State, the promotion of  
46 environmental protection and the prevention of pollution of the

- 1 environment of the State. The department shall in addition to the  
2 powers and duties vested in it by this act or by any other law have the  
3 power to:
- 4 a. Conduct and supervise research programs for the purpose of  
5 determining the causes, effects and hazards to the environment and its  
6 ecology;
  - 7 b. Conduct and supervise Statewide programs of education,  
8 including the preparation and distribution of information relating to  
9 conservation, environmental protection and ecology;
  - 10 c. Require the registration of persons engaged in operations which  
11 may result in pollution of the environment and the filing of reports by  
12 them containing such information as the department may prescribe to  
13 be filed relative to pollution of the environment, all in accordance with  
14 applicable codes, rules or regulations established by the department;
  - 15 d. Enter and inspect any building or place for the purpose of  
16 investigating an actual or suspected source of pollution of the  
17 environment and ascertaining compliance or noncompliance with any  
18 codes, rules and regulations of the department. Any information  
19 relating to secret processes concerning methods of manufacture or  
20 production, obtained in the course of such inspection, investigation or  
21 determination, shall be kept confidential, except this information shall  
22 be available to the department for use, when relevant, in any  
23 administrative or judicial proceedings undertaken to administer,  
24 implement, and enforce State environmental law, but shall remain  
25 subject only to those confidentiality protections otherwise afforded by  
26 federal law and by the specific State environmental laws and  
27 regulations that the department is administering, implementing and  
28 enforcing in that particular case or instance. In addition, this  
29 information shall be available upon request to the United States  
30 Government for use in administering, implementing, and enforcing  
31 federal environmental law, but shall remain subject to the  
32 confidentiality protection afforded by federal law. If samples are taken  
33 for analysis, a duplicate of the analytical report shall be furnished  
34 promptly to the person suspected of causing pollution of the  
35 environment;
  - 36 e. Receive or initiate complaints of pollution of the environment,  
37 including thermal pollution, hold hearings in connection therewith and  
38 institute legal proceedings for the prevention of pollution of the  
39 environment and abatement of nuisances in connection therewith and  
40 shall have the authority to seek and obtain injunctive relief and the  
41 recovery of fines and penalties in summary proceedings in the Superior  
42 Court;
  - 43 f. Prepare, administer and supervise Statewide, regional and local  
44 programs of conservation and environmental protection, giving due  
45 regard for the ecology of the varied areas of the State and the  
46 relationship thereof to the environment, and in connection therewith

1 prepare and make available to appropriate agencies in the State  
2 technical information concerning conservation and environmental  
3 protection, cooperate with the Commissioner of Health in the  
4 preparation and distribution of environmental protection and health  
5 bulletins for the purpose of educating the public, and cooperate with  
6 the Commissioner of Health in the preparation of a program of  
7 environmental protection;

8 g. Encourage, direct and aid in coordinating State, regional and  
9 local plans and programs concerning conservation and environmental  
10 protection in accordance with a unified Statewide plan which shall be  
11 formulated, approved and supervised by the department. In reviewing  
12 such plans and programs and in determining conditions under which  
13 such plans may be approved, the department shall give due  
14 consideration to the development of a comprehensive ecological and  
15 environmental plan in order to be assured insofar as is practicable that  
16 all proposed plans and programs shall conform to reasonably  
17 contemplated conservation and environmental protection plans for the  
18 State and the varied areas thereof;

19 h. Administer or supervise programs of conservation and  
20 environmental protection, prescribe the minimum qualifications of all  
21 persons engaged in official environmental protection work, and  
22 encourage and aid in coordinating local environmental protection  
23 services;

24 i. Establish and maintain adequate bacteriological, radiological and  
25 chemical laboratories with such expert assistance and such facilities as  
26 are necessary for routine examinations and analyses, and for original  
27 investigations and research in matters affecting the environment and  
28 ecology;

29 j. Administer or supervise a program of industrial planning for  
30 environmental protection; encourage industrial plants in the State to  
31 undertake environmental and ecological engineering programs; and  
32 cooperate with the State Departments of Health, Labor, and  
33 Commerce and Economic Development in formulating rules and  
34 regulations concerning industrial sanitary conditions;

35 k. Supervise sanitary engineering facilities and projects within the  
36 State, authority for which is now or may hereafter be vested by law  
37 in the department, and shall, in the exercise of such supervision, make  
38 and enforce rules and regulations concerning plans and specifications,  
39 or either, for the construction, improvement, alteration or operation  
40 of all public water supplies, all public bathing places, landfill  
41 operations and of sewerage systems and disposal plants for treatment  
42 of sewage, wastes and other deleterious matter, liquid, solid or  
43 gaseous, require all such plans or specifications, or either, to be first  
44 approved by it before any work thereunder shall be commenced,  
45 inspect all such projects during the progress thereof and enforce  
46 compliance with such approved plans and specifications;

- 1       l. Undertake programs of research and development for the  
2 purpose of determining the most efficient, sanitary and economical  
3 ways of collecting, disposing, recycling or utilizing of solid waste;
- 4       m. [Construct and operate, on an experimental basis, incinerators  
5 or other facilities for the disposal of solid waste, provide the various  
6 municipalities and counties of this State, the Board of Public Utilities,  
7 and the Division of Local Government Services in the Department of  
8 Community Affairs with statistical data on costs and methods of solid  
9 waste collection, disposal and utilization;] Provide the various  
10 municipalities, public authorities and counties of this State and the  
11 Division of Local Government Services in the Department of  
12 Community Affairs with statistical data on costs and methods of solid  
13 waste collection, disposal, utilization and recycling;
- 14       n. Enforce the State air pollution, water pollution, conservation,  
15 environmental protection, solid and hazardous waste [and refuse  
16 disposal] management laws, rules and regulations, including the  
17 making and signing of a complaint and summons for their violation by  
18 serving the summons upon the violator and thereafter filing the  
19 complaint promptly with a court having jurisdiction;
- 20       o. [Acquire by purchase, grant, contract or condemnation, title to  
21 real property, for the purpose of demonstrating new methods and  
22 techniques for the collection or disposal of solid waste;] (deleted by  
23 amendment, P.L. , c. )
- 24       p. Purchase, operate and maintain, pursuant to the provisions of  
25 this act, any facility, site, laboratory, equipment or machinery  
26 necessary to the performance of its duties pursuant to this act;
- 27       q. Contract with any other public agency or corporation  
28 incorporated under the laws of this or any other state for the  
29 performance of any function under this act;
- 30       r. With the approval of the Governor, cooperate with, apply for,  
31 receive and expend funds from, the federal government, the State  
32 Government, or any county or municipal government or from any  
33 public or private sources for any of the objects of this act;
- 34       s. Make annual and such other reports as it may deem proper to the  
35 Governor and the Legislature, evaluating the demonstrations  
36 conducted during each calendar year;
- 37       t. Keep complete and accurate minutes of all hearings held before  
38 the commissioner or any member of the department pursuant to the  
39 provisions of this act. All such minutes shall be retained in a permanent  
40 record, and shall be available for public inspection at all times during  
41 the office hours of the department;
- 42       u. Require any person subject to a lawful order of the department,  
43 which provides for a period of time during which such person subject  
44 to the order is permitted to correct a violation, to post a performance  
45 bond or other security with the department in such form and amount  
46 as shall be determined by the department. Such bond need not be for

1 the full amount of the estimated cost to correct the violation but may  
2 be in such amount as will tend to insure good faith compliance with  
3 said order. The department shall not require such a bond or security  
4 from any public body, agency or authority. In the event of a failure to  
5 meet the schedule prescribed by the department, the sum named in the  
6 bond or other security shall be forfeited unless the department shall  
7 find that the failure is excusable in whole or in part for good cause  
8 shown, in which case the department shall determine what amount of  
9 said bond or security, if any, is a reasonable forfeiture under the  
10 circumstances. Any amount so forfeited shall be utilized by the  
11 department for the correction of the violation or violations, or for any  
12 other action required to insure compliance with the order.

13 (cf: P.L.1984, c.5, s.1)

14

15 23. Section 3 of P.L.1970, c.39 (C.13:1E-3) is amended to read as  
16 follows:

17 3. [For purposes of this act, unless the context clearly requires a  
18 different meaning] As used in this act:

19 [a.] "Solid waste" means garbage, refuse, and other discarded  
20 materials resulting from industrial, commercial and agricultural  
21 operations, and from domestic and community activities, and shall  
22 include all other waste materials including liquids, except for solid  
23 animal and vegetable wastes collected by swine producers licensed by  
24 the State Department of Agriculture to collect, prepare and feed such  
25 wastes to swine on their own farms.

26 [b.] "Solid waste collection" means the activity related to pick-up  
27 and transportation of solid waste from its source or location to a  
28 transfer station or other authorized solid waste facility.

29 [c.] "Disposal" means the storage, treatment, utilization,  
30 processing, resource recovery of, or the discharge, deposit, injection,  
31 dumping, spilling, leaking or placing of any solid or hazardous waste  
32 into or on any land or water, so that the solid or hazardous waste or  
33 any constituent thereof may enter the environment or be emitted into  
34 the air or discharged into any waters, including groundwaters.

35 [d.] "Solid waste management" includes all activities related to the  
36 collection [and] or disposal of solid waste by any person engaging in  
37 any such process.

38 [e.] "Council" means the Advisory Council on Solid Waste  
39 Management.

40 [f.] "Department" means the State Department of Environmental  
41 Protection.

42 [g.] "Commissioner" means the Commissioner of Environmental  
43 Protection in the State Department of Environmental Protection.

44 [h.] "Solid waste facilities" [mean] means and [include] includes  
45 the plants, structures and other real and personal property acquired,  
46 constructed or operated or to be acquired, constructed or operated by

1 [any person] , or on behalf of, a public authority or county for, or with  
2 respect to, the implementation of a district solid waste management  
3 plan required pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1  
4 et seq.)[, P.L.1970, c.40 (C.48:13A-1 et seq.)] or any other act,  
5 including transfer stations, incinerators, resource recovery facilities,  
6 sanitary landfill facilities or other plants for the disposal of solid waste,  
7 and all vehicles, equipment and other real and personal property and  
8 rights therein and appurtenances necessary or useful and convenient  
9 for the collection or disposal of solid waste in a sanitary manner.

10 [i.] "Public authority" means [any solid waste management  
11 authority created pursuant to the "solid waste management authorities  
12 law," P.L.1968, c.249 (C.40:66A-32 et seq.);] a municipal or county  
13 utilities authority created pursuant to the "municipal and county  
14 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.);  
15 [incinerator authority created pursuant to the "incinerator authorities  
16 law," P.L.1948, c.348 (C.40:66A-1 et seq.);] a county improvement  
17 authority created pursuant to the "county improvement authorities  
18 law," P.L.1960, c.183 (C.40:37A-44 et seq.)[,] ; a pollution control  
19 financing authority created pursuant to the "New Jersey Pollution  
20 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any  
21 other public body corporate and politic created for solid waste  
22 management purposes in any county [or municipality], pursuant to the  
23 provisions of any law.

24 [j.] "Hackensack Meadowlands District" means the area within the  
25 jurisdiction of the Hackensack Meadowlands Development  
26 Commission created pursuant to the provisions of the "Hackensack  
27 Meadowlands Reclamation and Development Act," P.L.1968, c.404  
28 (C.13:17-1 et seq.).

29 [k.] "Hackensack Commission" means the Hackensack  
30 Meadowlands Development Commission created pursuant to the  
31 provisions of the "Hackensack Meadowlands Reclamation and  
32 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

33 [l. (Deleted by amendment, P.L.1990, c.113)

34 m. (Deleted by amendment, P.L.1990, c.113)

35 n.] "Public sewage treatment plant" means any structure or  
36 structures required to be approved by the department pursuant to  
37 P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1  
38 et seq.), by means of which domestic wastes are subjected to any  
39 artificial process in order to remove or so alter constituents as to  
40 render the waste less offensive or dangerous to the public health,  
41 comfort or property of any of the inhabitants of this State, before the  
42 discharge of the plant effluent into any of the waters of this State; this  
43 definition includes plants for the treatment of industrial wastes, as well  
44 as a combination of domestic and industrial wastes.

45 [o.] "Resource recovery" means the collection, separation,  
46 recycling and recovery of metals, glass, paper and other materials for

1 reuse; or the incineration of solid waste for energy production and the  
2 recovery of metals and other materials for reuse.

3 [p. (Deleted by amendment, P.L.1990, c.113)

4 q.] "Sanitary landfill facility" means a solid waste facility at which  
5 solid waste is deposited on or in the land as fill for the purpose of  
6 permanent disposal or storage for a period exceeding six months,  
7 except that it shall not include any waste facility approved for disposal  
8 of hazardous waste.

9 [r.] "Transfer station" means a solid waste facility at which solid  
10 waste is transferred from a solid waste collection vehicle to a licensed  
11 solid waste haulage vehicle, including a rail car, for transportation to  
12 an offsite sanitary landfill facility, resource recovery facility, or other  
13 destination for disposal, except that a "transfer station" shall not  
14 include any solid waste facility at which solid waste is received for  
15 onsite transfer, and processing or disposal utilizing facility-owned or  
16 operated equipment and vehicles operated therefor.

17 (cf: P.L.1990, c.113, s.4)

18

19 24. Section 4 of P.L.1970, c.39 (C.13:1E-4) is amended to read as  
20 follows:

21 4. a. The department shall have power to supervise solid waste  
22 collection activities, solid waste facilities and disposal [facilities or]  
23 operations, and shall in the exercise of such supervision require the  
24 registration of new and existing solid waste collection activities, solid  
25 waste facilities and disposal [facilities and] operations; and may  
26 exempt from the requirement of registration any class of solid waste  
27 collection activity, solid waste facility or disposal [facility or]  
28 operation.

29 b. The department in reviewing the registration statement for a new  
30 solid waste collection [operation] activity or solid waste [disposal]  
31 facility or disposal operation and in determining the conditions under  
32 which it may be approved, shall not approve the registration of any  
33 new [operation or facility] solid waste collection activity or solid  
34 waste facility or disposal operation that does not conform to the  
35 district solid waste management plan of the solid waste management  
36 district in which [such operation or facility] the solid waste collection  
37 activity or solid waste facility or disposal operation is to be located,  
38 as [such] the district plan shall have been approved by the department  
39 as hereinafter provided. Prior to the approval by the department of the  
40 district solid waste management plan of any solid waste management  
41 district, the department may grant approval to any new solid waste  
42 collection activity or solid waste facility or disposal operation [or  
43 facility] planned to be located in [any such] the district and that  
44 district shall include [said] the solid waste collection activity, solid  
45 waste facility or disposal operation [or facility] in its plan.

46 (cf: P.L.1975, c.326, s.5)

1       25. Section 5 of P.L.1970, c.39 (C.13:1E-5) is amended to read as  
2 follows:

3       5. a. Unless exempted by the department, no person shall hereafter  
4 engage or continue to engage in the collection or disposal of solid  
5 waste in this State without first filing a registration statement and  
6 obtaining approval thereof from the department. A person engaging  
7 in solid waste disposal shall file a separate registration statement and  
8 an engineering design for each [disposal] solid waste facility which he  
9 operates. [The registration statement and engineering design for each  
10 disposal facility and approval of same shall be for the duration of the  
11 plan.]

12       b. The registration statement and the engineering design shall be  
13 made on forms provided by the department and shall contain such  
14 information as may be prescribed by the department. The State and  
15 any of its political subdivisions, public agencies and public authorities  
16 shall be deemed a person within the meaning of [this act] P.L.1970,  
17 c.39 (C.13:1E-1 et seq.).

18       c. No registration shall be approved by the department when in the  
19 opinion of the department [such] the solid waste collection activity or  
20 [disposal] solid waste facility or disposal operation will not meet the  
21 standards or criteria set forth in [this amendatory and supplementary  
22 act] P.L.1970, c.39 (C.13:1E-1 et seq.) or in rules or regulations as  
23 may be [promulgated under authority of this act or this amendatory  
24 and supplementary act] adopted pursuant thereto. The department  
25 may require the amendment of an approved registration when, in its  
26 opinion, continued operation of a solid waste facility in accordance  
27 with its approved registration would not meet the standards, criteria  
28 or regulations described herein.

29 (cf: P.L.1975, c.326, s.6)

30

31       26. Section 1 of P.L.1983, c.464 (C.13:1E-5.1) is amended to read  
32 as follows:

33       1. In addition to all other standards, conditions and procedures  
34 required pursuant to law for the approval of applications for  
35 registration statements and engineering designs for new solid waste  
36 [disposal] facilities:

37       a. The department shall transmit, by certified mail, a complete copy  
38 of any application for a registration statement or engineering design  
39 approval for a new solid waste [disposal] facility to the governing  
40 body of the affected municipality;

41       b. Within 6 months of the receipt of a complete application, the  
42 department shall reject the application or grant tentative approval  
43 thereof, which tentative approval shall establish design and operating  
44 conditions for the proposed solid waste [disposal] facility,  
45 requirements for the monitoring thereof, and any other conditions  
46 required under federal or State laws or rules and regulations;

1 c. All tentative approvals of applications granted pursuant to  
2 subsection b. of this section shall be transmitted to the applicant and  
3 to the affected municipality and shall be accompanied by a fact sheet  
4 setting forth the principal facts and the significant factual, legal,  
5 methodological, and policy questions considered in granting the  
6 tentative approval. The fact sheet shall include a description of the  
7 solid waste facility which is the subject of the tentative approval; the  
8 type and quantities of solid waste [or sludge] which may be disposed  
9 of at the proposed solid waste facility; and a brief summary of the  
10 basis for the conditions of the tentative approval; and

11 d. Within 45 days of the granting of a tentative approval of an  
12 application, a public hearing on the proposed solid waste facility and  
13 operator shall be conducted by the department. The department shall  
14 adopt [and promulgate] rules and regulations necessary to ensure that  
15 the public hearing is full and impartial and that the applicant is present  
16 to answer questions relating to the proposed solid waste facility which  
17 are posed by interested parties.

18 e. In the event that any application review by the department  
19 pursuant to this section is for a registration statement and engineering  
20 design approval for a proposed solid waste facility on a site located  
21 in more than one municipality, the notices required herein shall be  
22 transmitted to each affected municipality, and all of the affected  
23 municipalities shall be considered a single party for the purposes of the  
24 public hearing held concerning the application.

25 (cf: P.L.1983, c.464, s.1)

26

27 27. Section 6 of P.L.1970, c.39 (C.13:1E-6) is amended to read as  
28 follows:

29 6. a. The department shall [, in addition to such other powers as  
30 it may possess by law]:

31 (1) Undertake a program of research and development for the  
32 purpose of determining the most efficient, sanitary,  
33 environmentally-sound and economical way of collecting, disposing  
34 [and], utilizing or recycling solid waste.

35 (2) Formulate and [promulgate] adopt, amend and repeal codes,  
36 rules and regulations concerning solid waste collection and solid waste  
37 disposal activities. [Such] These codes, rules and regulations shall  
38 establish the procedures relating to the preparation and submission of  
39 environmental impact statements prior to the construction, acquisition,  
40 or operation of any solid waste facility, and shall establish standards  
41 for the construction and operation of solid waste facilities, which  
42 standards shall include, but need not be limited to, provisions  
43 requiring: the maintenance of ground water quality monitoring wells  
44 to check water pollution; periodic monitoring of water quality by  
45 chemical analysis; measures to monitor methane gas production at  
46 sanitary [landfills] landfill facilities; plans for erosion control;

1 revegetation procedures and plans for the maintenance, upkeep, and  
2 reuse of any [sanitary] landfill site; adequate cover material; safety  
3 measures; rodent, insect, bird, dust, fire and odor control programs;  
4 and such other measures as shall be deemed necessary to protect the  
5 public health and safety and the natural environment.

6 All codes, rules and regulations heretofore adopted by the Public  
7 Health Council relating to refuse disposal shall continue in full force  
8 and effect and be enforceable by the department, subject to its power  
9 as herein provided to amend or repeal the same.

10 (3) Develop, formulate, [promulgate] adopt and review for the  
11 purpose of revising or updating not less than once every 2 years, a  
12 Statewide solid waste management plan which shall encourage the  
13 maximum practicable use of [resource recovery procedures] the solid  
14 waste facilities that are owned or operated by the various public  
15 authorities or counties and which shall provide the objectives, criteria  
16 and standards for the evaluation of district solid waste management  
17 plans prepared pursuant to the provisions of [this amendatory and  
18 supplementary act] P.L.1970, c.39 (C.13:1E-1 et seq.) for solid waste  
19 management districts in this State; and to the extent practicable,  
20 encourage and assist in the development and formulation of [such]  
21 district solid waste management plans and guidelines to implement  
22 such plans. [Such objectives, criteria and standards shall be  
23 promulgated within 180 days of the effective date of this act; provided,  
24 however, that general guidelines sufficient to initiate the solid waste  
25 management planning process by solid waste management districts in  
26 this State shall be promulgated within 30 days of the effective date of  
27 this act.] In the development and formulation of the Statewide solid  
28 waste management plan the department shall consult with relevant  
29 agencies and instrumentalities of the Federal Government, and the  
30 aforesaid objectives, criteria and standards provided by said Statewide  
31 solid waste management plan shall conform, to the extent practicable,  
32 or as may be required, to the provisions of any Federal law concerning  
33 such objectives, criteria and standards.

34 (4) Make an annual report to the Governor and the Legislature  
35 evaluating the operation of [this amendatory and supplementary act]  
36 P.L.1970, c.39 (C.13:1E-1 et seq.), including any recommendations  
37 deemed necessary by the department to better effectuate the purposes  
38 hereof.

39 b. The department may, in addition:

40 (1) [Order any district, pursuant to the Statewide solid waste  
41 management plan, the objectives, criteria and standards contained  
42 therein, the environmental and economic studies conducted by the  
43 department therefor and in a manner designed to enhance the  
44 environment within the concerned districts, (a) to plan for the  
45 construction of resource recovery facilities, (b) to specify what  
46 processes should be utilized therein, (c) to develop a joint program

1 with one or more adjacent districts for providing resource recovery  
2 facilities, and (d) for those districts affected by the guarantee provided  
3 in section 9.1 of P.L.1968, c.404 (C.13:17-10), to cooperate on a  
4 continuing basis with the department and with the other districts so  
5 affected in the development of a combined approach to solid waste  
6 management in northeastern New Jersey and make the final  
7 determination in the event of any overlap or conflict between the  
8 Hackensack Commission and any board of chosen freeholders pursuant  
9 to their respective responsibilities under this amendatory and  
10 supplementary act or pursuant to the Hackensack Commission's  
11 responsibilities under P.L.1968, c.404 (C.13:17-1 et seq.).] (Deleted  
12 by amendment, P.L. , c. )

13 (2) Acquire, by purchase, grant, contract or condemnation, title to  
14 real property, for the purpose of demonstrating new methods and  
15 techniques for the collection, disposal [and] utilization or recycling of  
16 solid waste;

17 (3) Purchase, operate and maintain, pursuant to the provisions of  
18 this act, any facility, site, laboratory equipment or machinery necessary  
19 to the performance of its duties pursuant to this act;

20 (4) Apply for, receive and expend funds from any public or private  
21 source; or

22 (5) Contract with any other public agency, including a local board  
23 of health or county [and municipal boards of] health department, or  
24 corporation incorporated under the laws of this or any other state for  
25 the performance of any function under this act. Any such contract  
26 with a local board of health or county [or municipal board of] health  
27 department may provide for the inspection and monitoring of solid  
28 waste facilities; the enforcement of the department's standards  
29 therefor; and the training of county or [municipal] local health officers  
30 engaged in such inspection, monitoring or enforcement[;].

31 (6) [Make grants to assist in experimenting with new methods of  
32 solid waste collection, disposal, or utilization, pursuant to the  
33 provisions of sections 21 through 25 of this amendatory and  
34 supplementary act;] (Deleted by amendment, P.L. , c. )

35 (7) [Construct and operate, on an experimental basis, incinerators  
36 or other facilities for the disposal or utilization of solid waste, to  
37 provide] Provide the various municipalities, public authorities and  
38 counties of this State, [the Board of Public Utility Commissioners,]  
39 the Hackensack Commission, and the Division of Local Government  
40 Services in the Department of Community Affairs with statistical data  
41 on costs and methods of solid waste collection [and], disposal[;],  
42 utilization and recycling.

43 (8) [Make annual and such other reports as it may deem proper to  
44 the Governor and the Legislature evaluating the demonstrations and  
45 experiments conducted during each calendar year.] (Deleted by  
46 amendment, P.L. , c. )

1 (cf: P.L.1975, c.326, s.7)

2

3 28. Section 7 of P.L.1970, c.39 (C.13:1E-7) is amended to read as  
4 follows:

5 7. a. There is hereby created in the department an Advisory  
6 Council on Solid Waste Management which shall consist of [14] 13  
7 members, [four] three of whom shall be [the President of the Board of  
8 Public Utilities,] the Commissioner of Community Affairs, the  
9 Secretary of Agriculture and the Commissioner of Health, or their  
10 designees, who shall serve ex officio, and ten citizens of the State, four  
11 of whom shall be actively engaged in [the] solid waste collection,  
12 recycling or solid waste disposal [industries] activities or operations,  
13 of whom one shall be a representative of the Institute for Scrap  
14 Recycling Industries who shall represent the scrap recycling or  
15 processing industry in the State, two health professionals of whom one  
16 shall be a representative of the New Jersey Hospital Association and  
17 the other a licensed practitioner selected from the medical or dental  
18 communities in the State who shall represent the regulated medical  
19 waste generators in the State, and four of whom shall be representing  
20 the general public to be appointed by the Governor, with the advice  
21 and consent of the Senate. The Governor shall designate a chairman  
22 and vice chairman of the council from the public members who shall  
23 serve at the will of the Governor.

24 b. All public members shall be appointed for terms of 4 years. All  
25 appointed members shall serve after the expiration of their terms until  
26 their respective successors are appointed and shall qualify, and any  
27 vacancy occurring in the appointed membership of the council by  
28 expiration of term or otherwise, shall be filled in the same manner as  
29 the original appointment for the unexpired term only, notwithstanding  
30 that the previous incumbent may have held over and continued in  
31 office as aforesaid.

32 c. Members of the council shall serve without compensation but  
33 shall be reimbursed for expenses actually incurred in attending  
34 meetings of the council and in performance of their duties as members  
35 thereof.

36 (cf: P.L.1991, c.292, s.1)

37

38 29. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to read  
39 as follows:

40 2. a. No person shall, regardless of intent, engage, or be permitted  
41 to engage, in the [collection or] disposal of solid waste in excess of  
42 0.148 cubic yards of solids or 30 United States gallons of liquids,  
43 whether for profit or otherwise, except at a registered solid waste  
44 facility or an out-of-state disposal site which has authorization from  
45 the appropriate state regulatory agency having jurisdiction over solid  
46 waste management to accept out-of-state solid waste for disposal, or

1 any other place in this State which has authorization from the  
2 Department of Environmental Protection to accept solid waste for  
3 disposal, as the case may be.

4 b. No person shall, regardless of intent, transport or cause or  
5 permit to be transported any solid waste in excess of 0.148 cubic yards  
6 of solids or 30 United States gallons of liquids, whether for profit or  
7 otherwise, except to a registered solid waste facility or an out-of-state  
8 disposal site which has authorization from the appropriate state  
9 regulatory agency having jurisdiction over solid waste management to  
10 accept out-of-state solid waste for disposal, or to any other place in  
11 this State which [does not have] has authorization from the  
12 Department of Environmental Protection to accept solid waste for  
13 disposal, as the case may be.

14 c. No person shall, regardless of intent, cause, engage in or be  
15 permitted to engage in, the disposal of any amount of solid waste on  
16 real property subject to the use, control or ownership of a railroad  
17 company, unless such disposal is expressly authorized by the railroad  
18 company and approved by the Department of Environmental  
19 Protection.

20 d. The provisions of this section shall be enforced by the  
21 Department of Environmental Protection and by every relevant public  
22 authority, county, municipality, local board of health, or county health  
23 department, as the case may be.

24 (cf: P.L.1995, c.11, s.1)

25

26 30. Section 11 of P.L.1975, c.326 (C.13:1E-20) is amended to  
27 read as follows:

28 11. a. (1) [Within 360 days after the effective date of this  
29 amendatory and supplementary act, the] The respective boards of  
30 chosen freeholders, in the case of counties, and the Hackensack  
31 Commission, in the case of the Hackensack Meadowlands District,  
32 shall develop and formulate, pursuant to the procedures herein  
33 contained, a district solid waste management plan for each respective  
34 solid waste management district[; provided, however, that the  
35 commissioner may extend such period for a maximum of 45 additional  
36 days upon the certification of the board of chosen freeholders or the  
37 Hackensack Commission, as the case may be, of the causes of the  
38 delay in developing and formulating a plan, and upon the  
39 commissioner's determination that an extension will permit the  
40 development and formulation of a solid waste management plan as  
41 required herein. Within 90 days of the effective date of this act, each  
42 district shall make the necessary personnel, financial and legal  
43 arrangements to assure the development and formulation of the plan  
44 within 360 days of the effective date of this act].

45 Every district solid waste management plan shall be developed and  
46 formulated to be in force and effect for a period of not less than 10

1 years, upon the expiration of which a new plan shall be developed and  
2 formulated pursuant to the procedures herein contained[; provided,  
3 however, that every such].

4 Every district solid waste management plan shall contain provisions  
5 for automatic review thereof not less than once every two years  
6 following the approval thereof by the department, which review shall  
7 be undertaken by the board of chosen freeholders or the Hackensack  
8 Commission, as the case may be[; and provided further, however, that  
9 every such].

10 Every district solid waste management plan may be reviewed at any  
11 time by the department. Upon [such] the review, if the board of  
12 chosen freeholders, the Hackensack Commission, or the department,  
13 as the case may be, determines that any district solid waste  
14 management plan, or any part thereof, is inadequate for the purposes  
15 for which it was intended, [such] the board of chosen freeholders or  
16 the Hackensack Commission, as the case may be, shall develop and  
17 formulate a new district solid waste management plan, or any part  
18 thereof, and [such] the new district solid waste management plan, or  
19 part thereof, shall be adopted thereby pursuant to the procedures  
20 contained in section 14 of P.L.1975, c.326 (C.13:1E-23).

21 Every district solid waste management plan shall be amended to  
22 reflect any revisions to the strategy for the collection or disposal of  
23 solid waste utilized in any constituent municipality in the district based  
24 on changes necessitated by revisions in State or federal laws, rules or  
25 regulations, or court decisions, including any changes in solid waste  
26 collection activities, solid waste facilities or solid waste disposal  
27 operations in any constituent municipality in the district as heretofore  
28 reported in the district solid waste management plan as required  
29 pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21).

30 Nothing herein contained shall be construed as to prevent any board  
31 of chosen freeholders or the Hackensack Commission from readopting  
32 a district solid waste management plan upon the expiration of same in  
33 a [solid waste management] district; provided, however, that any such  
34 readoption shall be pursuant to the provisions of section 14 of  
35 P.L.1975, c.326 (C.13:1E-23).

36 (2) Any two or more districts may formulate and adopt a [single]  
37 regional solid waste management plan which shall meet all the  
38 requirements of [this act] P.L.1970, c.39 (C.13:1E-1 et seq.) for the  
39 combined area of the cooperating [solid waste management] districts.

40 b. (1) To assist each board of chosen freeholders in the  
41 development and formulation of the district solid waste management  
42 plans required herein, an advisory solid waste council shall be  
43 constituted in every county and shall include municipal mayors or their  
44 designees, persons engaged in the collection or disposal of solid waste  
45 and environmentalists. The respective size, composition and  
46 membership of each such council shall be designated by the respective

1 boards of chosen freeholders. In the Hackensack Meadowlands  
2 District, the Hackensack Meadowlands Municipal Committee,  
3 established pursuant to [article 4] sections 7 and 8 of P.L.1968, c.404  
4 (C.13:17-7 and 13:17-8), is hereby designated an advisory solid waste  
5 council for the purposes of this [amendatory and supplementary act]  
6 subsection; provided, however, that nothing herein contained shall be  
7 construed as in any way altering the powers, duties and responsibilities  
8 of the Hackensack Meadowlands Municipal Committee except as  
9 herein specifically provided.

10 The respective boards of chosen freeholders and the Hackensack  
11 Commission shall consult with the relevant advisory solid waste  
12 council at such stages in the development and formulation of the  
13 district solid waste management plan as each such board of chosen  
14 freeholders or the Hackensack Commission, as the case may be, shall  
15 determine; provided, however, that a district solid waste management  
16 plan shall be adopted as hereinafter provided only after consultation  
17 with the relevant advisory solid waste council.

18 (2) In the development and formulation of a district solid waste  
19 management plan for any [solid waste management] district, the board  
20 of chosen freeholders or the Hackensack Commission, as the case may  
21 be, shall:

22 (a) Consult with the county or municipal government agencies  
23 concerned with, or responsible for, water pollution control, water  
24 policy, water supply, or zoning or land use within the [solid waste  
25 management] district;

26 (b) Review such plans for solid waste collection and disposal  
27 proposed by, or in force in, any municipality or municipalities within  
28 the [solid waste management district], to determine the suitability of  
29 any such plan, or any part thereof, for inclusion within the district solid  
30 waste management plan of the [solid waste management] district; and

31 (c) Consult with persons engaged in solid waste collection and  
32 disposal in the [solid waste management] district.

33 (cf: P.L.1985, c.38, s.35)

34  
35 31. Section 12 of P.L.1975, c.326 (C.13:1E-21) is amended to  
36 read as follows:

37 12. a. Every district solid waste management plan shall be based  
38 upon and shall be accompanied by a report containing:

39 (1) An inventory of the sources, composition, and quantity of solid  
40 waste generated within the [solid waste management] district in the  
41 year in which the report is prepared;

42 (2) Projections of the amounts and composition of solid waste to  
43 be generated within the district in each of the 10 years following the  
44 year in which the report is prepared[; provided, however, that in the  
45 formulation of its solid waste management plan every board of chosen  
46 freeholders may deduct from the actual amount of solid waste

1 generated within the solid waste management district in the year in  
2 which the report is prepared, and projected for each of the 10 years  
3 following said year, the total solid waste tonnage treated and disposed  
4 on a daily basis in the Hackensack Meadowlands District by every  
5 municipality within said solid waste management district as of July 1,  
6 1968, which deduction shall be pursuant to the guarantee provided in  
7 P.L.1968, c.404, section 9.1 (C.13:17-10)];

8 (3) An inventory and appraisal, including the identity, location, and  
9 life expectancy, of all registered solid waste facilities within the [solid  
10 waste management] district, including [such] any registered solid  
11 waste facilities owned or operated by [any person] a public authority  
12 or county, and the identity of every person engaging in solid waste  
13 collection or disposal within the district, and the identity and location  
14 of any designated out-of-state disposal site to be utilized by the  
15 district, or any constituent municipality thereof, for the disposal of  
16 solid waste generated within the district, including evidence that the  
17 designated disposal site is permitted by the appropriate state  
18 regulatory agency having jurisdiction over solid waste management to  
19 accept out-of-state solid waste for disposal, and is in conformance  
20 with all relevant Federal or state laws, rules or regulations; and

21 (4) An analysis of existing solid waste collection systems and  
22 transportation routes within the [solid waste management] district.

23 b. Every district solid waste management plan shall include:

24 (1) The designation of a public authority or department, unit or  
25 committee of the county government, in the case of counties, or of the  
26 Hackensack Commission, in the case of the Hackensack Meadowlands  
27 District, to supervise the implementation of the district solid waste  
28 management plan and to report thereon at such times as may be  
29 required by the board of chosen freeholders or the Hackensack  
30 Commission, as the case may be;

31 (2) A statement of the solid waste disposal strategy to be applied  
32 in the [solid waste management] district, which strategy shall include  
33 the maximum practicable use of [resource recovery procedures] all  
34 existing registered solid waste facilities that are owned or operated by  
35 the designated public authority or county, or may include the use of a  
36 designated out-of-state disposal site, provided that the statement  
37 includes evidence that the designated disposal site is permitted by the  
38 appropriate state regulatory agency having jurisdiction over solid  
39 waste management to accept out-of-state solid waste for disposal, and  
40 is in conformance with all relevant Federal or state laws, rules or  
41 regulations; and a plan for using terminated landfill disposal sites, if  
42 any, in the [solid waste management] district;

43 (3) A site plan, which shall include all existing registered solid  
44 waste facilities located within the [solid waste management] district,  
45 provided that they are operated and maintained in accordance with all  
46 applicable health and environmental standards[, and sufficient

1 additional available suitable sites to provide solid waste facilities to  
2 treat and dispose of the actual and projected amounts of solid waste  
3 contained in the report accompanying the plan].

4 [Upon a certification to the commissioner by the board of chosen  
5 freeholders or the Hackensack Commission, as the case may be, of the  
6 absence of sufficient existing or available suitable sites for such solid  
7 waste facilities within the solid waste management district, the site  
8 plan shall identify sufficient additional existing or available suitable  
9 sites for such facilities located in another solid waste management  
10 district; provided, however, that such certification shall be  
11 accompanied by a copy of the contract or agreement entered into by  
12 the concerned boards of chosen freeholders or the Hackensack  
13 Commission, as the case may be, authorizing the use by a solid waste  
14 management district of solid waste facilities located in another solid  
15 waste management district, and providing for the acquisition of such  
16 lands and rights and interests therein as may be required within the  
17 solid waste management district in which the solid waste facilities are  
18 to be located.]

19 [Notwithstanding the above, however, a] A board of chosen  
20 freeholders or the Hackensack Commission, as the case may be, may  
21 enter into an interdistrict agreement with any person engaged in solid  
22 waste disposal in [an adjacent solid waste management] any district  
23 with the approval of [said adjacent] that district, which interdistrict  
24 agreement shall be reflected in the [plans for said adjacent districts, to  
25 treat and dispose of the amount of solid waste from their district that  
26 said person treats and disposes of in that adjacent district on the  
27 effective date of this act] district solid waste management plan  
28 adopted by each district to be served under the terms of the proposed  
29 interdistrict agreement.

30 [Upon the failure for any reason of the concerned boards of chosen  
31 freeholders or the Hackensack Commission, as the case may be, to  
32 make such a contract or to reach such an agreement, the board of  
33 chosen freeholders or the Hackensack Commission, as the case may  
34 be, seeking to locate said solid waste facilities in another solid waste  
35 management district shall certify such failure to the commissioner.

36 Upon the receipt of any such certification of failure, the  
37 commissioner shall cause a study to be made by the department to  
38 determine the suitable location of solid waste facilities for the use of  
39 the solid waste management district for which such certification was  
40 made. In such study, the commissioner may request the submission of  
41 any specifications or other information he deems necessary from any  
42 solid waste management district, and the board of chosen freeholders  
43 or the Hackensack Commission, as the case may be, shall submit all  
44 such material so requested. In determining the suitable location of  
45 solid waste facilities, the commissioner shall weigh the relative  
46 feasibility of alternative locations in terms of such factors as

1 environmental impact, transportation patterns and their comparative  
2 costs, compatibility with the current land use policies in the immediate  
3 area of the alternative locations, as well as with the Statewide solid  
4 waste management plan and such other master plans and planning  
5 policies as may exist at the municipal, county, regional or State levels,  
6 and such other criteria as the commissioner deems relevant.

7 Upon the completion of said study the commissioner shall:

8 (a) Require the certifying board of chosen freeholders or the  
9 Hackensack Commission, as the case may be, to locate the required  
10 solid waste facilities within its own solid waste management district  
11 and as part of the solid waste management plan therefor; or

12 (b) Require any other board of chosen freeholders or the  
13 Hackensack Commission, as the case may be to provide solid waste  
14 facilities, or parts thereof, within its solid waste management district  
15 and as part of the solid waste management plan therefor, for the use  
16 of the certifying solid waste management district; provided, however,  
17 that the full cost of any such solid waste facilities, or of any part  
18 thereof to the extent of use thereof, shall be borne by the solid waste  
19 management district making use of same.

20 In the adoption of any solid waste management plan pursuant to the  
21 provisions of section 14 of this amendatory and supplementary act, no  
22 board of chosen freeholders nor the Hackensack Commission, as the  
23 case may be, shall alter any part required by a determination made by  
24 the commissioner as herein provided concerning the location of any  
25 solid waste facilities.

26 Notwithstanding the provisions of section 11 of this amendatory  
27 and supplementary act, the time taken by the commissioner from the  
28 receipt of any certification of failure pursuant to this section to the  
29 completion of the study required herein concerning such certification  
30 of failure, shall be in addition to, and shall not count towards, the 360  
31 days permitted in said section 11 for the development and formulation  
32 of a solid waste management plan.]

33 (4) A [survey] designation of proposed collection [districts] and  
34 transportation routes, which routes shall, in the case of resource  
35 recovery facilities to the maximum extent practicable, avoid roads or  
36 highways in residential or congested areas, with projected  
37 transportation costs from collection [districts] routes to existing or  
38 available suitable sites for solid waste facilities;

39 (5) The procedures for coordinating all activities related to the  
40 collection [and] or disposal of solid waste by every person engaging  
41 in [such process] these activities within the [solid waste management]  
42 district, which procedures shall include the interdistrict agreements  
43 entered into as provided herein between the board of chosen  
44 freeholders or the Hackensack Commission, as the case may be, and  
45 every such person; and the procedures for furnishing the solid waste  
46 facilities contained in the district solid waste management plan; [and]

1       (6) A statement of the solid waste disposal strategy to be utilized  
2 by each constituent municipality in the district, which strategy may  
3 include the maximum practicable use of all existing registered solid  
4 waste facilities that are owned or operated by the designated public  
5 authority or county, or the use of a designated out-of-state disposal  
6 site, provided that the statement includes evidence that the designated  
7 disposal site is permitted by the appropriate state regulatory agency  
8 having jurisdiction over solid waste management to accept out-of-state  
9 solid waste for disposal, and is in conformance with all relevant  
10 Federal or state laws, rules or regulations; and

11       (7) The method or methods of financing solid waste management  
12 activities in the [solid waste management] district pursuant to the  
13 district solid waste management plan.

14       c. Any existing joint meeting formed for the construction or  
15 operation of solid waste facilities pursuant to the "[consolidated  
16 municipal services act" (Consolidated Municipal Services Act,  
17 P.L.1952, c.72[;](C.40:48B-1 et seq.))]or any existing authority  
18 composed of two or more municipalities formed pursuant to the "solid  
19 waste management authorities law,"[(P.L.1968,  
20 c.249[;](C.40:66A-32 et seq.))]may request the commissioner to  
21 review its solid waste management plan. The commissioner may direct  
22 the concerned [solid waste management] district to incorporate all or  
23 part of said plan into the district solid waste management plan of that  
24 district.

25 (cf: P.L.1975, c.326, s.12)

26

27       32. Section 13 of P.L.1975, c.326 (C.13:1E-22) is amended to  
28 read as follows:

29       13. In order to preserve and maintain the State's pledges and  
30 covenants with the holders of any bonds issued by any public  
31 authority, no district solid waste management plan shall include  
32 provisions for establishing any solid waste facility in competition with  
33 [such] any registered solid waste facilities operated, or for which  
34 bonds have been issued, by any [such] public authority; provided,  
35 however, that every board of chosen freeholders and the Hackensack  
36 Commission is hereby authorized and empowered in the development  
37 [and], formulation or amendment of a district solid waste management  
38 plan, to enter into any [contract or] interdistrict agreement with any  
39 public authority within any [solid waste management] district  
40 providing for or relating to solid waste collection [and] or solid waste  
41 disposal. Any [such contract or] interdistrict agreement may provide  
42 for the furnishing of solid waste facilities either by or to the [solid  
43 waste management] district, or the joint [construction or operation]  
44 use of solid waste facilities. Every [such contract or] interdistrict  
45 agreement shall conform to all the requirements of law for [contracts  
46 or] interdistrict agreements made by any public authority, and may

1 include such provisions for rates [and] fees or charges, [and]  
2 including the solid waste charges to be received at the registered solid  
3 waste facility for solid waste disposal, including any portion of the  
4 rates, fees or charges allocated for environmental investment charges  
5 as defined in section 3 of P.L. , c. (C. )(pending in the  
6 Legislature as this bill), for the furnishing of solid waste facilities, as  
7 the board of chosen freeholders or the Hackensack Commission, as the  
8 case may be, deems necessary in the development [and], formulation  
9 or amendment of a district solid waste management plan to coordinate  
10 all activities relating to solid waste collection [and] or solid waste  
11 disposal within the [solid waste management] district, and for the  
12 furnishing of adequate and suitable solid waste facilities therein. Every  
13 board of chosen freeholders and the Hackensack Commission, as the  
14 case may be, is hereby further authorized and empowered to purchase  
15 the bonds of any public authority, and to purchase any solid waste  
16 facilities of any public authority upon [a contract or] an interdistrict  
17 agreement therewith for any such solid waste facility purchase.  
18 (cf: P.L.1975, c.326, s.13)

19

20 33. Section 14 of P.L.1975, c.326 (C.13:1E-23) is amended to  
21 read as follows:

22 14. a. [Pursuant to the procedures herein contained, the] The  
23 respective boards of chosen freeholders, in the case of counties, and  
24 the Hackensack Commission, in the case of the Hackensack  
25 Meadowlands District, shall have the power, after consultation with  
26 the relevant advisory solid waste council, to adopt a district solid  
27 waste management plan for the relevant [solid waste management]  
28 district[; provided, however, that if in any solid waste management  
29 district the procedures contained in this section are not commenced  
30 within 361 days after the effective date of this amendatory and  
31 supplementary act, unless the commissioner shall have extended the  
32 time for the development and formulation of a solid waste management  
33 plan pursuant to section 11 of this amendatory and supplementary act,  
34 and unless a certification of failure shall have been received by the  
35 commissioner pursuant to 12 b.(3) of this amendatory and  
36 supplementary act, the department shall have the power to develop,  
37 formulate and, pursuant to the procedures herein contained, adopt and  
38 promulgate a solid waste management plan for any such solid waste  
39 management every district].

40 b. Upon the development and formulation of a district solid waste  
41 management plan, and after consultation with the relevant advisory  
42 solid waste council, the relevant board of chosen freeholders, in the  
43 case of counties, or the Hackensack Commission, in the case of the  
44 Hackensack Meadowlands District, shall prepare a map showing the  
45 boundaries of the [solid waste management] district and the location  
46 of all existing and proposed solid waste facilities. In the event such

1 district solid waste management plan proposes to locate solid waste  
2 facilities in another [solid waste management] district, a map of such  
3 other district, showing the location of the proposed facilities, shall be  
4 prepared. Said map shall be appended to a copy of the district's solid  
5 waste management plan, to which shall also be appended a copy of the  
6 report accompanying said plan. Said map, plan and report shall be sent  
7 by mail to the mayor of each municipality within the county, in the  
8 case of counties, and in the case of the Hackensack Meadowlands  
9 District, said map, plan and report shall be maintained at the main  
10 office of the Hackensack Commission.

11 c. The board of chosen freeholders, or the Hackensack  
12 Commission, as the case may be, shall thereupon cause a hearing to be  
13 held at an appointed time and place for the purpose of hearing persons  
14 interested in, or who would be affected by, the adoption of the district  
15 solid waste management plan for the relevant [solid waste  
16 management] district, and who are in favor of or are opposed to such  
17 adoption.

18 d. A notice of such hearing shall be given setting forth the purpose  
19 thereof and stating that a map, plan and report have been prepared and  
20 can be inspected at the offices of every municipality within the county,  
21 or at the main office of the Hackensack Commission, as the case may  
22 be. A copy of such notice shall be published in a newspaper of general  
23 circulation in the [solid waste management] district once each week  
24 for 2 consecutive weeks, and the last publication shall be not less than  
25 10 days prior to the date set for the hearing. A copy of the notice shall  
26 be mailed at least 10 days prior to the date set for the hearing to the  
27 last owner, if any, of each parcel of property within or without the  
28 district on which it is proposed to locate any solid waste facilities  
29 pursuant to the district's solid waste management plan. Such mailing  
30 shall be according to the assessment records of the municipality where  
31 such parcel is located and shall be sent to the last known postal  
32 address of such owners. A notice shall also be sent to any and all  
33 persons at his, or their, last known address, if any, whose names are  
34 noted on said assessment records as claimants of an interest in any  
35 such parcel. The assessor of such municipality shall make a notation  
36 upon the said records when requested so to do by any person claiming  
37 to have an interest in any parcel of property in such municipality.  
38 Failure to mail any such notice shall not invalidate the adoption of any  
39 district solid waste management plan.

40 e. At the hearing, which may be adjourned from time to time, the  
41 board of chosen freeholders, or the Hackensack Commission, as the  
42 case may be, shall hear all persons interested in the district solid waste  
43 management plan and shall consider any, and all, written objections  
44 that may be filed and any evidence which may be introduced in support  
45 of the objections, or any opposition to the adoption of the district solid  
46 waste management plan for the [solid waste management] district.

1 After the hearing the board of chosen freeholders, or the Hackensack  
2 Commission, as the case may be, shall, by resolution, adopt or reject,  
3 in whole or in part, the district solid waste management plan for the  
4 [solid waste management] district. The adoption of all or a part of a  
5 district solid waste management plan, if supported by substantial  
6 evidence, shall be binding and conclusive upon all persons affected by  
7 the adoption. If all or any part of the district solid waste management  
8 plan is adopted, the board of chosen freeholders, or the Hackensack  
9 Commission, as the case may be, within 10 days after such adoption,  
10 shall cause to be served a copy of the resolution of adoption upon each  
11 person who filed a written objection at or prior to the hearing;  
12 provided, the address of the objector was stated in, or upon, the  
13 written objection.

14 Such service may be made (1) by delivering a copy of the resolution  
15 personally to the objector, (2) by mailing such copy addressed to the  
16 objector according to his said stated address, or (3) leaving such copy  
17 at said stated address for the objector with a person of suitable age  
18 and discretion.

19 f. Any person who shall have filed such a written objection with the  
20 board of chosen freeholders, or the Hackensack Commission, as the  
21 case may be, may have the adoption of a district solid waste  
22 management plan reviewed by the Superior Court of New Jersey by  
23 procedure in lieu of prerogative writs. An action for such review shall  
24 be commenced within 30 days after the adoption by the board of  
25 chosen freeholders, or by the Hackensack Commission, as the case  
26 may be. In any such action, the said court may make any incidental  
27 order that shall be deemed by the court to be appropriate and proper.

28 g. Upon the adoption of a district solid waste management plan in  
29 its entirety, the board of chosen freeholders or the Hackensack  
30 Commission, as the case may be, shall forthwith submit such plan, and  
31 a copy of the transcript of every public hearing held thereon, and a  
32 complete record of the dates and results of all consultation with  
33 governmental agencies and the relevant advisory solid waste council,  
34 to the commissioner. Upon the adoption of a part or parts of a district  
35 solid waste management plan, the board of chosen freeholders or the  
36 Hackensack Commission, as the case may be, shall certify the fact of  
37 such partial adoption to the commissioner, and such board of chosen  
38 freeholders or the Hackensack Commission, as the case may be, shall[,  
39 notwithstanding any previous extension granted pursuant to any of the  
40 provisions of this amendatory and supplementary act,] have [an  
41 additional] 45 days from the date of such certification to adopt a  
42 district solid waste management plan in its entirety, which adoption  
43 shall be pursuant to all the procedures contained herein for the  
44 adoption of district solid waste management plans.

45 h. Every board of chosen freeholders and the Hackensack  
46 Commission shall adopt a district solid waste management plan in its

1 entirety and submit same to the commissioner, with a copy of the  
2 transcript of every public hearing held thereon, and a complete record  
3 of the dates and results of all consultation with governmental agencies  
4 and the relevant advisory solid waste council[, within 450 days after  
5 the effective date of this amendatory and supplementary act; provided,  
6 however, that if the commissioner shall have granted an extension of  
7 time for the development and formulation of such plan pursuant to  
8 section 11 of this amendatory and supplementary act, or an extension  
9 of time for the adoption of any such plan in its entirety pursuant to this  
10 section, or both, the time for adoption and submission to the  
11 commissioner as required herein shall be increased to a maximum of  
12 495 days in the case of either such extension, or 540 days in the case  
13 of both such extensions; and, provided further, however, that if the  
14 commissioner shall have received a certification of failure pursuant to  
15 section 12 b. of this amendatory and supplementary act, the time for  
16 adoption and submission to the commissioner, notwithstanding any  
17 other increase authorized in this amendatory and supplementary act,  
18 shall be increased by the number of days taken by the commissioner  
19 from the date of such receipt to the completion of his study concerning  
20 such certification of failure].

21 i. [Upon the failure of any board of chosen freeholders or the  
22 Hackensack Commission, as the case may be, to adopt a solid waste  
23 management plan in its entirety and to submit same to the  
24 commissioner, with a copy of the transcript of every public hearing  
25 held thereon, and a complete record of the dates and results of all  
26 consultation with governmental agencies and the relevant advisory  
27 solid waste council, within the time prescribed in subsection h. of this  
28 section, the department shall have the power to develop and formulate  
29 a solid waste management plan in its entirety for any such solid waste  
30 management district, either including therein or excluding therefrom  
31 any part or parts of such plan as may have been adopted by the board  
32 of chosen freeholders or the Hackensack Commission, as the case may  
33 be. Following the holding of a public hearing pursuant to the  
34 procedures contained herein, the department shall have the power to  
35 adopt and promulgate such solid waste management plan in its entirety  
36 for any such solid waste management district. Any solid waste  
37 management plan so adopted and promulgated by the department for  
38 any solid waste management district shall be subject to the same  
39 review by the Superior Court as solid waste management plans  
40 otherwise adopted pursuant to this section.] (Deleted by amendment,  
41 P.L. , c. )

42 (cf: P.L.1975, c.326, s.14)

43

44 34. Section 15 of P.L.1975, c.326 (C.13:1E-24) is amended to  
45 read as follows:

46 15. a. Upon receipt by the commissioner of a district solid waste

1 management plan adopted in its entirety, and a copy of the transcript  
2 of every public hearing held thereon, as required pursuant to section  
3 14 of [this amendatory and supplementary act] P.L.1975, c.326  
4 (C.13:1E-23), [he] the commissioner shall:

5 (1) Study and review the district solid waste management plan  
6 according to the objectives, criteria and standards developed in the  
7 Statewide solid waste management plan developed and formulated by  
8 the department pursuant to the provisions of section 6 of [the act to  
9 which this act is amendatory and supplementary] P.L.1970, c.39  
10 (C.13:1E-6); and

11 (2) Submit a copy of said plan for review and recommendations to  
12 the Advisory Council on Solid Waste Management in the department,  
13 and to the agencies, bureaus and divisions within the department  
14 concerned with, or responsible for, environmental quality, including,  
15 but not limited to, the Bureau of Solid Waste Management, Bureau of  
16 Air Pollution Control, Bureau of Geology, and the Bureau of Water  
17 Pollution Control, or their successors[; and].

18 (3) [Submit a copy of said plan to the Board of Public Utility  
19 Commissioners for review and recommendations on the economic  
20 aspect of the plan.](Deleted by amendment, P.L. \_\_, c. \_\_)

21 b. After completing [his] the study and review of the district solid  
22 waste management plan, and upon receipt of the recommendations  
23 thereon provided for in subsection a. (2) of this section, if any, but in  
24 no event later than 150 days after [his] the receipt of said plan, the  
25 commissioner shall determine whether to approve, modify, or reject  
26 any such district solid waste management plan, and shall certify such  
27 determination to the board of chosen freeholders or to the Hackensack  
28 Commission, as the case may be, which submitted such plan.

29 c. If the commissioner determines to approve any district solid  
30 waste management plan, or if the commissioner has made no  
31 determination within 150 days after [his] the receipt of any such plan,  
32 the board of chosen freeholders or the Hackensack Commission, as the  
33 case may be, shall proceed, pursuant to the requirements of [this  
34 amendatory and supplementary act] P.L.1970, c.39 (C.13:1E-1 et  
35 seq.), to implement such district solid waste management plan in the  
36 relevant [solid waste management] district.

37 d. If the commissioner determines to modify or reject any district  
38 solid waste management plan, or any part thereof, the certification  
39 required [of him] herein shall be accompanied by a detailed statement  
40 prepared by the commissioner indicating the reasons for any  
41 modification or rejection, and outlining the action to be taken thereon.

42 The provisions of this subsection to the contrary notwithstanding,  
43 the commissioner shall not reject or require the modification of any  
44 district solid waste management plan, or any part thereof, providing  
45 for the long-term use of designated out-of-state disposal sites for the  
46 disposal of solid waste generated within the district.

1 In outlining such action the commissioner shall direct the board of  
2 chosen freeholders or the Hackensack Commission, as the case may  
3 be, to make any modification in, or replace any rejected part of, a  
4 district solid waste management plan, either with or without holding  
5 another public hearing in the [solid waste management] district. Such  
6 direction shall be based upon the commissioner's determination[, in  
7 his] and discretion, that such modification, or the part rejected, is or  
8 is not minor, and that such modification or replacement may or may  
9 not be made without substantially modifying or altering other aspects  
10 of the district solid waste management plan; provided, however, that  
11 a public hearing shall be required upon a rejection by the commissioner  
12 of any district solid waste management plan in its entirety.

13 e. (1) If the commissioner directs the holding of another public  
14 hearing in the [solid waste management] district, such hearing shall be  
15 held within 45 days after such direction and shall be conducted  
16 pursuant to the procedures contained in section 14 of [this amendatory  
17 and supplementary act] P.L.1975, c.326 (C.13:1E-23) for the conduct  
18 of public hearings held prior to the adoption of district solid waste  
19 management plans. Following any such public hearing on any  
20 modification to, or replacement of, any district solid waste  
21 management plan, or any part thereof, the board of chosen freeholders  
22 or the Hackensack Commission, as the case may be, holding same shall  
23 formally adopt a modification to, or replacement of, the district solid  
24 waste management plan, or any part thereof, and shall submit same to  
25 the commissioner within the time limit set by the commissioner in the  
26 public hearing order.

27 (2) If the commissioner directs that the modification or  
28 replacement may be made without the holding of another public  
29 hearing, the board of chosen freeholders or the Hackensack  
30 Commission, as the case may be, shall have 45 days after such  
31 direction within which to adopt any such modification or replacement,  
32 and to submit same to the commissioner.

33 f. The commissioner shall have 30 days from the date of receipt of  
34 any submission under subsection e. herein to approve such  
35 modification or replacement or to reject same, and he shall certify such  
36 approval or rejection to the board of chosen freeholders or the  
37 Hackensack Commission, as the case may be, which submitted same.

38 The provisions of this subsection to the contrary notwithstanding,  
39 the commissioner shall not reject any modification or replacement  
40 providing for the long-term use of designated out-of-state disposal  
41 sites for the disposal of solid waste generated within the district.

42 If the commissioner approves such modification or replacement, or  
43 if the commissioner has made no such certification within 30 days after  
44 his receipt thereof, the board of chosen freeholders or the Hackensack  
45 Commission, as the case may be, shall proceed, pursuant to the  
46 requirements of [this amendatory and supplementary act] P.L.1970,

1 c.39 (C.13:1E-1 et seq.), to implement the district solid waste  
2 management plan in the relevant [solid waste management] district.

3 Upon a rejection of any modification or replacement submitted [to  
4 him] pursuant to this section, or upon the failure of a board of chosen  
5 freeholders or the Hackensack Commission, as the case may be, to  
6 submit any modification or replacement as required herein, the  
7 commissioner shall have the power to adopt [and promulgate] any  
8 modification or replacement [he] the commissioner deems necessary  
9 with respect to the district solid waste management plan, and upon the  
10 certification of the commissioner, the board of chosen freeholders or  
11 the Hackensack Commission, as the case may be, shall proceed,  
12 pursuant to the requirements of [this amendatory and supplementary  
13 act] P.L.1970, c.39 (C.13:1E-1 et seq.), to implement the district solid  
14 waste management plan in the relevant [solid waste management]  
15 district with the modifications or replacements adopted by the  
16 commissioner.

17 g. Every district solid waste management plan shall be modified to  
18 reflect any revisions to the strategy for the collection or disposal of  
19 solid waste utilized in any constituent municipality in the district based  
20 on changes necessitated by revisions in State or federal laws, rules or  
21 regulations, or court decisions, including any changes in solid waste  
22 collection activities, solid waste facilities or solid waste disposal  
23 operations in any constituent municipality in the district as heretofore  
24 reported in the district solid waste management plan as required  
25 pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21).

26 h. The commissioner shall maintain on file in the department a copy  
27 of [the Statewide] every district solid waste management plan  
28 [developed proved] approved pursuant to this [amendatory and  
29 supplementary act] section, and a copy of the Statewide solid waste  
30 management plan developed and formulated by the department  
31 pursuant to section 6 of P.L.1970, c.39 (C.13:1E-6). [Such] These  
32 plans are hereby declared to be public records and shall be subject to  
33 all the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) concerning  
34 such public records.

35 (cf: P.L.1975, c.326, s.15)

36  
37 35. Section 19 of P.L.1975, c.326 (C.13:1E-28) is amended to  
38 read as follows:

39 19. a. Any municipality within which a registered sanitary landfill  
40 facility is located pursuant to an adopted and approved district solid  
41 waste management plan shall be entitled to an annual economic benefit  
42 not less than the equivalent of \$1.00 per ton of solids on all solid  
43 waste accepted for disposal at the sanitary landfill facility during the  
44 previous calendar year as determined by the department.

45 The owner or operator of the sanitary landfill facility shall annually  
46 pay to the relevant municipality the full amount due under this

1 subsection and each relevant municipality is empowered to anticipate  
2 this amount for the purposes of preparing its annual budget. For the  
3 purposes of calculating the payments, the owner or operator of the  
4 sanitary landfill facility may, subject to the prior agreement of the  
5 relevant municipality and the approval of the Department of  
6 Environmental Protection, provide the municipality with any of the  
7 following benefits in consideration for the use of land within its  
8 municipal boundaries as the location of a sanitary landfill facility:

9 (1) The receipt of annual sums of money in lieu of taxes on the  
10 land used for the sanitary landfill facility;

11 (2) The exemption from all fees and charges for the disposal of  
12 solid waste generated within its boundaries;

13 (3) The receipt of a lump sum cash payment; or

14 (4) Any combination thereof.

15 b. (Deleted by amendment, P.L.1994, c.27)

16 c. [Every owner or operator of a sanitary landfill facility required  
17 to make annual payments to a municipality pursuant to subsection a.  
18 of this section may petition the Department of Environmental  
19 Protection for an increase in its tariff which reflects these payments.  
20 The department, within 60 days of the receipt of the petition, shall  
21 issue an appropriate order that these payments shall be passed along  
22 to the users of the sanitary landfill facility as an automatic surcharge  
23 on any tariff filed with, and recorded by, the department for the solid  
24 waste disposal operations of the facility.] (Deleted by amendment,  
25 P.L. , c. )

26 d. [In issuing any order required by this section, the Department of  
27 Environmental Protection shall be exempt from the provisions of

1 R.S.48:2-21.] (Deleted by amendment, P.L. , c. )

2 (cf: P.L.1994, c.27, s.1)

3

4 36. Section 2 of P.L.1987, c.449 (C.13:1E-28.1) is amended to  
5 read as follows:

6 2. a. Any municipality within which a registered transfer station is  
7 located pursuant to an adopted and approved district solid waste  
8 management plan shall be entitled to an annual economic benefit to be  
9 paid or adjusted not less than quarterly in an amount established by  
10 agreement with the owner or operator of the transfer station [or by  
11 order of the Board of Public Utilities], but not less than the equivalent  
12 of \$0.50 per ton of all solid waste accepted for transfer at the transfer  
13 station during the 1987 calendar year and each year thereafter.

14 The owner or operator of the transfer station shall, not less  
15 frequently than quarterly, pay to the relevant municipality the full  
16 amount due under this subsection and each relevant municipality is  
17 empowered to anticipate this amount for the purposes of preparing its  
18 annual budget. For the purposes of calculating the payments, the  
19 owner or operator of the transfer station may, subject to the prior  
20 agreement of the relevant municipality [and the approval of the Board  
21 of Public Utilities], provide the municipality with any of the following  
22 benefits in consideration for the use of land within its municipal  
23 boundaries as the location of a transfer station:

24 (1) The receipt of quarterly payments of annual sums of money in  
25 lieu of taxes on the land used for the transfer station;

26 (2) The exemption from all fees and charges for the acceptance for  
27 transfer of solid waste generated within its boundaries;

28 (3) The receipt of quarterly lump sum cash payments; or

29 (4) Any combination thereof.

30 b. [Every owner or operator of a transfer station required to make  
31 payments not less frequently than quarterly to a municipality pursuant  
32 to subsection a. of this section may petition the Board of Public  
33 Utilities for an increase in its tariff which reflects these payments. The  
34 board, within 60 days of the receipt of the petition, shall issue an order  
35 that these payments shall be passed along to the users of the transfer  
36 station as an automatic surcharge on any tariff filed with, and recorded  
37 by, the board for the solid waste disposal operations of the transfer  
38 station.] (Deleted by amendment, P.L. , c. )

39 c. [In issuing any order required by this section, the Board of  
40 Public Utilities shall be exempt from the provisions of R.S.48:2-21.]  
41 (Deleted by amendment, P.L. , c. )

42 (cf: P.L.1991, c.381, s.40)

43

44 37. Section 2 of P.L.1994, c.27 (C.13:1E-28.3) is amended to read  
45 as follows:

46 2. a. Any municipality with a population density of more than

1 1,500 persons per square mile, according to the latest federal decennial  
2 census, that shares a common boundary with a municipality within  
3 which is located, pursuant to an adopted and approved district solid  
4 waste management plan, a registered sanitary landfill facility:

5 (1) any part of which lies within 1,300 feet of the common  
6 boundary between the municipalities, as determined by the Department  
7 of Environmental Protection;

8 (2) that received more than 700,000 tons of solid waste in the 1992  
9 calendar year or in any calendar year thereafter; and

10 (3) that is owned or operated by a county or by a county utilities  
11 authority created pursuant to the "municipal and county utilities  
12 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), shall be  
13 entitled to an annual economic benefit in consideration for the  
14 proximity of the sanitary landfill facility. The annual economic benefit  
15 shall be not less than the equivalent of \$0.50 per ton, and not more  
16 than \$1.50 per ton, of all solid waste accepted for disposal at the  
17 sanitary landfill facility, as determined by the department, during the  
18 1993 calendar year and each year thereafter.

19 b. A municipality that qualifies for an economic benefit pursuant to  
20 subsection a. of this section may negotiate with the owner or operator  
21 of the sanitary landfill facility to determine the actual dollar amount of  
22 the annual economic benefit to be paid to that municipality.

23 The owner or operator of the sanitary landfill facility shall annually  
24 pay to every municipality qualifying under subsection a. of this section  
25 the full amount due under this subsection, except that the owner or  
26 operator shall pay the 1993 economic benefit by the last day of the  
27 first quarter of the 1994 calendar year. Each municipality qualifying  
28 under subsection a. of this section may anticipate the annual economic  
29 benefit for the purposes of preparing its 1994 budget and each annual  
30 budget thereafter. For the purposes of calculating the method of  
31 payment, the owner or operator of the sanitary landfill facility may,  
32 subject to the prior agreement of a municipality qualifying under  
33 subsection a. of this section and to the approval of the Department of  
34 Environmental Protection, provide that municipality with any of the  
35 following benefits in consideration for the proximity of the sanitary  
36 landfill facility:

37 (1) The exemption from all fees and charges for the disposal of  
38 solid waste generated within the boundaries of the municipality;

39 (2) The receipt of a lump sum cash payment; or

40 (3) Any combination thereof.

41 c. [Every owner or operator of a sanitary landfill facility required  
42 to make annual payments to a municipality qualifying pursuant to  
43 subsection a. of this section may petition the Department of  
44 Environmental Protection for an increase in its tariff which reflects  
45 these payments. The department, within 60 days of the receipt of the  
46 petition, shall issue an appropriate order that these payments shall be

1 passed along to the users of the sanitary landfill facility as an  
2 automatic surcharge on any tariff filed with, and recorded by, the  
3 department for the solid waste disposal operations of the facility.]

4 (Deleted by amendment, P.L. , c. )

5 d. [In issuing any order required by this section, the Department of  
6 Environmental Protection shall be exempt from the provisions of  
7 R.S.48:2-21.] (Deleted by amendment, P.L. , c. )

8 (cf: P.L.1994, c.27, s.2)

9  
10 38. Section 18 of P.L.1989, c.34 (C.13:1E-48.18) is amended to  
11 read as follows:

12 18. a. Any county within which a solid waste facility is located  
13 pursuant to an adopted and approved district solid waste management  
14 plan, which facility is a designated recipient of regulated medical waste  
15 [pursuant to an interdistrict or intradistrict waste flow order issued by  
16 the Board of Public Utilities, in conjunction with the Department of  
17 Environmental Protection], may be entitled to an annual economic  
18 benefit in an amount established by agreement with the owner or  
19 operator of the solid waste facility. The governing body of the relevant  
20 county may negotiate with the owner or operator of the solid waste  
21 facility for the payment of an annual economic benefit.

22 b. [If the parties reach an agreement on the amount of an annual  
23 economic benefit, the owner or operator of the solid waste facility  
24 shall petition the board for an adjustment in its disposal tariff. The  
25 petition shall be accompanied by a copy of the agreement which  
26 reflects the proposed annual payments and shall be filed with the board  
27 prior to its implementation. The board, within 60 days of the receipt  
28 of the petition, shall issue an appropriate order that these payments  
29 shall be paid by the users of the facility as an automatic surcharge on  
30 any tariff filed with, and recorded by, the board for the regulated  
31 medical waste disposal operations of the facility. The surcharge shall  
32 be calculated and itemized in all appropriate tariffs on a per ton basis.  
33 In the event that any regulated medical waste is measured, upon  
34 acceptance for disposal, by other than tons, the surcharge shall be  
35 calculated and itemized by using the equivalents thereof as shall be  
36 determined by the board.] (Deleted by amendment, P.L. , c. )

37 c. [In issuing any order required by this section, the Board of  
38 Public Utilities shall be exempt from the provisions of R.S.48:2-21.]

39 (Deleted by amendment, P.L. , c. )

40 (cf: P.L.1989, c.34, s.18)

41  
42 39. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to  
43 read as follows:

44 3. a. Each county shall[, no later than October 20, 1987 and after  
45 consultation with each municipality within the county,] prepare and  
46 adopt a district recycling plan to implement the State Recycling Plan

1 goals. Each district recycling plan shall be adopted as an amendment  
2 to the district solid waste management plan required pursuant to the  
3 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
4 (C.13:1E-1 et seq.) and subject to the approval of the department.

5 b. Each district recycling plan required pursuant to this section  
6 shall include, but need not be limited to:

7 (1) Designation of a district recycling coordinator;

8 (2) Designation of the recyclable materials to be source separated  
9 in each municipality which shall include, in addition to leaves, at least  
10 three other recyclable materials separated from the municipal solid  
11 waste stream;

12 (3) Designation of the strategy for the collection, marketing and  
13 disposition of designated source separated recyclable materials in each  
14 municipality;

15 (4) Designation of recovery targets in each municipality to achieve  
16 the maximum feasible recovery of recyclable materials from the  
17 municipal solid waste stream which shall include, at a minimum, the  
18 following schedule:

19 (a) The recycling of at least 15% of the total municipal solid waste  
20 stream by December 31, 1989;

21 (b) The recycling of at least 25% of the total municipal solid waste  
22 stream by December 31, 1990; and

23 (c) The recycling of at least 50% of the total municipal solid waste  
24 stream, including yard waste and vegetative waste, by December 31,  
25 1995; and

26 (5) Designation of countywide recovery targets to achieve the  
27 maximum feasible recovery of recyclable materials from the total solid  
28 waste stream which shall include, at a minimum, the recycling of at  
29 least 60% of the total solid waste stream by December 31, 1995.

30 For the purposes of this subsection, "total municipal solid waste  
31 stream" means the sum of the municipal solid waste stream disposed  
32 of as solid waste, as measured in tons, plus the total number of tons of  
33 recyclable materials recycled; and "total solid waste stream" means the  
34 aggregate amount of solid waste generated within the boundaries of  
35 any county from all sources of generation, including the municipal  
36 solid waste stream.

37 c. [Each district recycling plan, in designating a strategy for the  
38 collection, marketing and disposition of designated recyclable  
39 materials in each municipality, shall accord priority consideration to  
40 persons engaging in the business of recycling or otherwise lawfully  
41 providing recycling services on behalf of a county or municipality on  
42 January 1, 1986, if that person continues to provide recycling services  
43 prior to the adoption of the plan and that person has not discontinued  
44 these services for a period of 90 days or more between January 1,  
45 1986, and the date on which the plan is adopted.] (Deleted by  
46 amendment, P.L. , c. )

1 Each district recycling plan may be modified after adoption  
2 pursuant to a procedure set forth in the adopted plan as approved by  
3 the department.

4 d. A district recycling plan may be modified to require that each  
5 municipality within the county revise the ordinance adopted pursuant  
6 to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to  
7 provide for the source separation and collection of used dry cell  
8 batteries as a designated recyclable material.

9 e. Each district recycling plan shall be modified to reflect a revised  
10 strategy for the collection, marketing and disposition of designated  
11 recyclable materials in any municipality within the county based on any  
12 solid waste services agreement negotiated between the municipality  
13 and the public authority or county pursuant to section 9 of P.L. ,  
14 c. (C. )(pending in the Legislature as this bill).

15 (cf: P.L.1992, c.167)

16  
17 40. Section 4 of P.L.1987, c.102 (C.13:1E-99.14) is amended to  
18 read as follows:

19 4. a. Each county [shall, within six months of the adoption and  
20 approval by the department of the district recycling plan required  
21 pursuant to section 3 of this amendatory and supplementary act,] or  
22 public authority as defined in section 3 of P.L. , c.  
23 (C. )(pending in the Legislature as this bill) may solicit proposals  
24 from, review the qualifications of, and enter into contracts or  
25 agreements on behalf of municipalities with persons providing  
26 recycling services or operating recycling centers for the collection,  
27 storage, processing, and disposition of recyclable materials designated  
28 in the district recycling plan [in those instances where these services  
29 are not otherwise provided by the municipality, interlocal service  
30 agreement or joint service program, or other private or public  
31 recycling program operator], subject to the provisions of section 9 of  
32 P.L. , c. (C. )(pending in the Legislature as this bill).

33 b. [In the event that a county is unable to enter into contracts or  
34 otherwise execute agreements to market specific designated recyclable  
35 materials in order to achieve the designated recovery targets set forth  
36 in the district recycling plan, the county may petition the department  
37 for a temporary exemption from the provisions of subsection a. of this  
38 section for these specified materials. The department is authorized to  
39 grant, deny or conditionally grant the exemption. If the exemption is  
40 denied, the department shall assist the county in identifying and  
41 securing markets for the recyclable materials designated in the district  
42 recycling plan. Any exemption granted by the department shall not  
43 exceed one year in duration, and shall be granted or renewed only  
44 upon a finding that the county has made a good faith effort to identify  
45 and secure markets for its recyclable materials. Each county shall  
46 continue to solicit those recycling services necessary to achieve the

1 maximum feasible recovery targets in each municipality as set forth in  
2 the district recycling plan.] (Deleted by amendment, P.L. , c. )  
3 (cf: P.L.1987, c.102, s.4)

4  
5 41. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to  
6 read as follows:

7 6. Each municipality in this State shall[, within 30 days of the  
8 effective date of this amendatory and supplementary act,] designate  
9 one or more persons as the municipal recycling coordinator. Each  
10 municipality shall establish and implement a municipal recycling  
11 program in accordance with the following requirements [and  
12 schedule]:

13 a. [Within six months of the adoption by the county and approval  
14 by the department of the district recycling plan required pursuant to  
15 section 3 of this amendatory and supplementary act, each] Each  
16 municipality shall provide for a collection system for the recycling of  
17 the recyclable materials designated in the district recycling plan as may  
18 be necessary to achieve the designated recovery targets set forth in the  
19 plan in those instances where a recycling collection system is not  
20 otherwise provided for by the generator or by the county, interlocal  
21 service agreement or joint service program, or other private or public  
22 recycling program operator.

23 b. The governing body of each municipality shall[, if it has not  
24 already done so, within 30 days of the effective date of any contracts  
25 or agreements entered into by the county or other local government  
26 unit to market one or more of the specific designated recyclable  
27 materials as required pursuant to section 4 of this amendatory and  
28 supplementary act,] adopt an ordinance which requires persons  
29 generating municipal solid waste within its municipal boundaries to  
30 source separate from the municipal solid waste stream, in addition to  
31 leaves, the specified recyclable materials for which markets have been  
32 secured and, unless recycling is otherwise provided for by the  
33 generator, place these specified recyclable materials for collection in  
34 the manner provided by the ordinance.

35 c. The governing body of each municipality shall, [within 30 days  
36 of the effective date of the ordinance adopted pursuant to subsection  
37 b. of this section and] at least once every 36 months [thereafter],  
38 conduct a review and make necessary revisions to the master plan and  
39 development regulations adopted pursuant to P.L. 1975, c. 291 (C.  
40 40:55D-1 et seq.), which revisions shall reflect changes in federal,  
41 State, county and municipal laws, policies and objectives concerning  
42 the collection, disposition and recycling of designated recyclable  
43 materials.

44 The revised master plan shall include provisions for the collection,  
45 disposition and recycling of recyclable materials designated in the  
46 municipal recycling ordinance adopted pursuant to subsection b. of

1 this section, and for the collection, disposition and recycling of  
2 designated recyclable materials within any development proposal for  
3 the construction of 50 or more units of single-family residential  
4 housing or 25 or more units of multi-family residential housing and any  
5 commercial or industrial development proposal for the utilization of  
6 1,000 square feet or more of land.

7 d. The governing body of a municipality may exempt persons  
8 occupying commercial and institutional premises within its municipal  
9 boundaries from the source separation requirements of the ordinance  
10 adopted pursuant to subsection b. of this section if those persons have  
11 otherwise provided for the recycling of the recyclable materials  
12 designated in the district recycling plan from solid waste generated at  
13 those premises. To be eligible for an exemption pursuant to this  
14 subsection, a commercial or institutional solid waste generator  
15 annually shall provide written documentation to the municipality of the  
16 total number of tons recycled.

17 e. The governing body of each municipality shall, on or before  
18 July 1, 1988 and on or before July 1 of each year thereafter, submit a  
19 recycling tonnage report to the New Jersey Office of Recycling in  
20 accordance with rules and regulations adopted by the department  
21 therefor.

22 f. The governing body of each municipality shall, [within six  
23 months of the effective date of the ordinance adopted pursuant to  
24 subsection b. of this section and] at least once every six months  
25 [thereafter], notify all persons occupying residential, commercial, and  
26 institutional premises within its municipal boundaries of local recycling  
27 opportunities, and the source separation requirements of the  
28 ordinance. In order to fulfill the notification requirements of this  
29 subsection, the governing body of a municipality may, in its discretion,  
30 place an advertisement in a newspaper circulating in the municipality,  
31 post a notice in public places where public notices are customarily  
32 posted, include a notice with other official notifications periodically  
33 mailed to residential taxpayers, or any combination thereof, as the  
34 municipality deems necessary and appropriate.

35 (cf: P.L.1987, c.102, s.6)

36

37 42. Section 10 of P.L.1981, c.306 (C.13:1E-109) is amended to  
38 read as follows:

39 10. a. The owner or operator of every sanitary landfill facility shall  
40 deposit, on a monthly basis in an interest-bearing account with an  
41 accredited financial institution, an amount equal to \$1.00 per ton of all  
42 solid waste accepted for disposal during the preceding month at the  
43 sanitary landfill facility. In the event that any solid waste is measured,  
44 upon acceptance for disposal, by other than tons, the amount to be  
45 deposited shall be calculated by using the equivalents thereof as shall  
46 be determined by the division.

1 The account established pursuant to this subsection shall constitute  
2 an escrow account for the closure of the particular sanitary landfill  
3 facility, and no withdrawals therefrom may be made without written  
4 approval of the department, except as otherwise authorized by the  
5 department.

6 b. Any owner or operator of a sanitary landfill facility who shall fail  
7 to deposit funds into an escrow account, as provided herein, or uses  
8 those funds for any purpose other than closing costs, as approved by  
9 the department, shall be guilty of a crime of the third degree.

10 c. [The Board of Public Utilities] Any owner or operator of a  
11 sanitary landfill facility may[, in accordance with the provisions of  
12 P.L.1970, c. 40 (C. 48:13A-1 et seq.), issue an appropriate order  
13 increasing current tariffs established pursuant to law for the solid  
14 waste disposal operations] collect an additional, separate charge from  
15 users of a sanitary landfill facility as may be necessary to purchase  
16 general liability insurance, including environmental impairment liability  
17 insurance, or to create a self-insurance fund sufficient to meet  
18 anticipated present and future obligations for the closure and  
19 post-closure period. Any additional revenues specifically collected for  
20 this insurance or fund shall be deposited in the escrow account  
21 established pursuant to subsection a. of this section for the closure of  
22 the sanitary landfill facility and shall be withdrawn only for the  
23 purchase of insurance or the payment of claims or claims costs made  
24 against the owner or operator of the sanitary landfill facility, as  
25 authorized by the department. No withdrawals from an escrow account  
26 shall be made for insurance costs, claims or claims costs unless [and  
27 until the board issues an appropriate order increasing the relevant tariff  
28 to provide specifically for these costs]authorized by the department.  
29 (cf: P.L.1987, c.347, s.2)

30

31 43. Section 28 of P.L.1985, c.38 (C.13:1E-163) is amended to  
32 read as follows:

33 28. a. Within 30 days of receipt of the hearing report submitted by  
34 a contracting unit pursuant to the provisions of subsection b. of  
35 section 27 of [this amendatory and supplementary act] P.L.1985, c.38  
36 (C.13:1E-162), the department shall approve or conditionally approve  
37 the proposed contract submitted for review by the contracting unit  
38 pursuant to the provisions of [this amendatory and supplementary act]  
39 P.L.1985, c.38 (C.13:1E-136 et al.). The department shall approve the  
40 proposed contract if it finds that the terms of the proposed contract  
41 are consistent with the district solid waste management plan adopted  
42 pursuant to the provisions of the "Solid Waste Management Act,"  
43 P.L.1970, c.39 (C.13:1E-1 et seq.) by the [solid waste] district to be  
44 served under the terms of the proposed contract. If the department  
45 conditionally approves the proposed contract, it shall state in writing  
46 the revisions which must be made to the proposed contract to receive

1 approval, and the contracting unit may prepare and submit to the  
2 department a revised proposed contract. If the department determines  
3 that the revisions are substantial, the contracting unit shall hold a  
4 public hearing on the revisions pursuant to the provisions of section 26  
5 and section 27 of [this amendatory and supplementary act] P.L.1985,  
6 c.38 (C.13:1E-161 and 13:1E-162). In the alternative, the district solid  
7 waste management plan may be amended pursuant to law so as to be  
8 consistent with the terms of the proposed contract.

9 b. Within 30 days of receipt of the hearing report submitted by a  
10 contracting unit pursuant to the provisions of subsection b. of section  
11 27 of [this amendatory and supplementary act] P.L.1985, c.38  
12 (C.13:1E-162), the Division of Local Government Services shall  
13 approve or conditionally approve the proposed contract submitted by  
14 the contracting unit pursuant to the provisions of [this amendatory and  
15 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.). The division  
16 shall approve the proposed contract if it finds in writing that the terms  
17 of the proposed contract are in compliance with the provisions of  
18 section 29 of [this amendatory and supplementary act] P.L.1985, c.38  
19 (C.13:1E-164), [and] that the terms of the proposed contract will  
20 result in the provision of services or facilities necessary for the health,  
21 safety, welfare, convenience or betterment of the recipients or users of  
22 these services or facilities, that the terms and provisions of the  
23 proposed contract are not unreasonable, exorbitant or impracticable,  
24 would not impose an undue and unnecessary financial burden on the  
25 citizens residing in or served by the contracting unit, and will not  
26 materially impair the ability of the contracting unit to punctually pay  
27 the principal and interest on its outstanding indebtedness and to supply  
28 other essential public improvements and services, except that the  
29 division, in its review of the proposed contract, shall be bound by any  
30 applicable findings or determinations of the Local Finance Board made  
31 pursuant to the provisions of subsection d. of N.J.S.40A:2-7 or section  
32 7 of P.L.1983, c.313 (C.40A:5A-7). If the division conditionally  
33 approves the proposed contract, it shall state in writing the revisions  
34 which must be made to the proposed contract to receive approval, and  
35 the contracting unit may prepare and submit to the division a revised  
36 proposed contract. If the division determines that revisions are  
37 substantial, the contracting unit shall hold a public hearing on the  
38 revisions pursuant to the provisions of section 26 and section 27 of  
39 [this amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161  
40 and 13:1E-162).

41 c. [Within 30 days of receipt of the hearing report submitted by a  
42 contracting unit pursuant to the provisions of subsection b. of section  
43 27 of this amendatory and supplementary act, the Board of Public  
44 Utilities shall approve or conditionally approve the proposed contract  
45 submitted by the contracting unit pursuant to the provisions of this  
46 amendatory and supplementary act. The board shall approve the

1 proposed contract if it finds in writing that the terms of the proposed  
2 contract are in the public interest. If the board conditionally approves  
3 the proposed contract it shall state in writing the revisions which must  
4 be made to the proposed contract to receive approval, and the  
5 contracting unit may prepare and submit to the board a revised  
6 proposed contract. If the board determines that the revisions are  
7 substantial, the contracting unit shall hold a public hearing on the  
8 revisions pursuant to the provisions of section 26 and section 27 of  
9 this amendatory and supplementary act. In reviewing and approving  
10 the contract, the Board of Public Utilities shall not determine a rate  
11 base for, or otherwise regulate the tariffs or return of, the proposed  
12 resource recovery facility. The board shall not, thereafter, conduct any  
13 further review of the contract.] (Deleted by amendment, P.L. , c. )

14 d. [Notwithstanding the provisions of subsection c. of this section,  
15 all parties to any contract may request the board to determine a rate  
16 base for the proposed resource recovery facility, in which case the  
17 board may make that determination and the terms of any contract so  
18 approved shall remain subject to the continuing jurisdiction of the  
19 board.] (Deleted by amendment, P.L. , c. )

20 (cf: P.L.1985, c.38, s.28)

21

22 44. Section 33 of P.L.1985, c.38 (C.13:1E-168) is amended to  
23 read as follows:

24 33. a. (1) The department may adopt, pursuant to the provisions  
25 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
26 et seq.), any rules and regulations necessary to implement the  
27 provisions of [this amendatory and supplementary act] P.L.1985, c.38  
28 (C.13:1E-136 et al.).

29 (2) The department shall adopt rules and regulations for the  
30 engineering design of resource recovery facilities, to include a  
31 requirement that state-of-the-art air emission technology be installed  
32 to control the emission of hydrocarbons, particulates, dioxins, nitrogen  
33 oxides, carbon monoxide, heavy metals, hydrochloric acid, sulfur  
34 oxides and other acid gases and pollutants from each resource  
35 recovery facility which is expected to emit these pollutants.

36 b. [The Board of Public Utilities may adopt, pursuant to the  
37 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
38 (C.52:14B-1 et seq.), any rules and regulations necessary to implement  
39 the provisions of this amendatory and supplementary act.] (Deleted by  
40 amendment, P.L. , c. )

41 c. The Division of Local Government Services may adopt, pursuant  
42 to the provisions of the "Administrative Procedure Act," P.L.1968,  
43 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to  
44 implement the provisions of [this amendatory and supplementary act]  
45 P.L.1985, c.38 (C.13:1E-136 et al.).

46 (cf: P.L.1985, c.38, s.33)

1       45. Section 8 of P.L.1985, c.368 (C.13:1E-176) is amended to  
2 read as follows:

3       8. [It] The provisions of any other law, or of any rule or regulation  
4 adopted pursuant thereto, to the contrary notwithstanding, it shall  
5 remain the continuing responsibility of the owner or operator of every  
6 sanitary landfill facility to insure that the rates or charges received at  
7 the sanitary landfill facility[, whether or not these rates or charges are  
8 subject to the jurisdiction of the Board of Public Utilities pursuant to  
9 P.L.1970, c.40 (C.48:13A-1 et seq.),] will provide sufficient revenues  
10 for all costs, including closure costs, likely to be incurred by the  
11 sanitary landfill facility.

12       In order to insure the integrity of financial planning for closure, the  
13 owner or operator of every sanitary landfill facility[, whether or not  
14 the rates or charges received by the facility are subject to the  
15 jurisdiction of the Board of Public Utilities,] shall submit for approval  
16 to the department [and, where relevant, the board,] a financial plan  
17 addressing all aspects of closure. [The owner or operator of every  
18 existing sanitary landfill facility for which a registration statement and  
19 engineering design have been filed with, and approved by, the  
20 department prior to June 1, 1985 shall submit a financial plan for  
21 closure within 180 days of the effective date of this act, except that the  
22 department, or the board, as the case may be, may grant an extension  
23 of up to 180 days, if sufficient reason exists to grant the extension.  
24 The owner or operator of every new sanitary landfill facility for which  
25 a registration statement and engineering statement have been filed with  
26 the department subsequent to June 1, 1985 shall submit for approval  
27 to the department and, where relevant, the board, a financial plan for  
28 closure prior to commencement of operations, except that the  
29 department, or the board, as the case may be, may grant an extension  
30 of up to 180 days, if sufficient reason exists to grant the extension.]  
31 (cf: P.L.1985, c.368, s.8)

32  
33       46. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read  
34 as follows:

35       3. As used in this act[, unless a different meaning clearly appears  
36 from the context]:

37       (1) "Municipality" shall mean any city of any class, any borough,  
38 village, town, township, or any other municipality other than a county  
39 or a school district, and except when used in section 4, 5, 6, 11, 12,  
40 13, 42 or 45 of [this act] P.L.1957, c.183 (C.40:14B-4 through  
41 40:14B-6, 40:14B-11 through 40:14B-13, 40:14B-42 or 40:14B-45),  
42 any agency thereof or any two or more thereof acting jointly or any  
43 joint meeting or other agency of any two or more thereof;

44       (2) "County" shall mean any county of any class;

45       (3) "Governing body" shall mean, in the case of a county, the  
46 board of chosen freeholders, or in the case of those counties organized

1 pursuant to the provisions of the "Optional County Charter Law"  
2 (P.L.1972, c.154; C.40:41A-1 et seq.), the board of chosen  
3 freeholders and the county executive, the county supervisor or the  
4 county manager, as appropriate, and, in the case of a municipality, the  
5 commission, council, board or body, by whatever name it may be  
6 known, having charge of the finances of the municipality;

7 (4) "Person" shall mean any person, association, corporation,  
8 nation, state or any agency or subdivision thereof, other than a county  
9 or municipality of the State or a municipal authority;

10 (5) "Municipal authority" shall mean a public body created or  
11 organized pursuant to section 4, 5 or 6 of [this act] P.L.1957, c.183  
12 (C.40:14B-4, 40:14B-5 or 40:14B-6) and shall include a municipal  
13 utilities authority created by one or more municipalities and a county  
14 utilities authority created by a county;

15 (6) Subject to the exceptions provided in section 10, 11 or 12 of  
16 [this act] P.L.1957, c.183 (C.40:14B-10, 40:14B-11 or 40:14B-12),  
17 "district" shall mean the area within the territorial boundaries of the  
18 county, or of the municipality or municipalities, which created or  
19 joined in or caused the creation or organization of a municipal  
20 authority;

21 (7) "Local unit" shall mean the county, or any municipality, which  
22 created or joined in or caused the creation or organization of a  
23 municipal authority;

24 (8) "Water system" shall mean the plants, structures and other real  
25 and personal property acquired, constructed or operated or to be  
26 acquired, constructed or operated by a municipal authority or by any  
27 person to whom a municipal authority has extended credit for this  
28 purpose for the purposes of the municipal authority, including  
29 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,  
30 pipelines, mains, pumping stations, water distribution systems,  
31 compensating reservoirs, waterworks or sources of water supply,  
32 wells, purification or filtration plants or other plants and works,  
33 connections, rights of flowage or division, and other plants, structures,  
34 boats, conveyances, and other real and personal property, and rights  
35 therein, and appurtenances necessary or useful and convenient for the  
36 accumulation, supply or distribution of water;

37 (9) "Sewerage system" shall mean the plants, structures, on-site  
38 wastewater systems and other real and personal property acquired,  
39 constructed or operated or to be acquired, constructed, maintained or  
40 operated by a municipal authority or by any person to whom a  
41 municipal authority has extended credit for this purpose for the  
42 purposes of the municipal authority, including sewers, conduits,  
43 pipelines, mains, pumping and ventilating stations, sewage treatment  
44 or disposal systems, plants and works, connections, outfalls,  
45 compensating reservoirs, and other plants, structures, boats,  
46 conveyances, and other real and personal property, and rights therein,

1 and appurtenances necessary or useful and convenient for [the  
2 collection, treatment, purification or disposal in a sanitary manner of  
3 any sewage, liquid or solid wastes, night soil or industrial wastes]  
4 their use or operation;

5 (10) "Utility system" shall mean a water system, solid waste  
6 [system] facilities, sewerage system, or a hydroelectric system or any  
7 combination of such facilities or systems, acquired, constructed or  
8 operated or to be acquired, constructed or operated by a municipal  
9 authority or by any person to whom a municipal authority has  
10 extended credit for this purpose;

11 (11) "Cost" shall mean, in addition to the usual connotations  
12 thereof, the cost of planning, acquisition or construction of all or any  
13 part of a utility system by or on behalf of a municipal authority and of  
14 all or any property, rights, easements, privileges, agreements and  
15 franchises deemed by the municipal authority to be necessary or useful  
16 and convenient therefor or in connection therewith, including interest  
17 or discount on bonds, cost of issuance of bonds, architectural,  
18 engineering and inspection costs and legal expenses, cost of financial,  
19 professional and other estimates and advice, organization,  
20 administrative, operating and other expenses of the municipal  
21 authority prior to and during such acquisition or construction, and all  
22 such other expenses as may be necessary or incident to the financing,  
23 acquisition, construction and completion of [said] the utility system  
24 or part thereof and the placing of the same in operation or the  
25 disposition of the same, and also such provision or reserves for  
26 working capital, operating, maintenance or replacement expenses or  
27 for payment or security of principal of or interest on bonds during or  
28 after such acquisition or construction as the municipal authority may  
29 determine, and also reimbursements to the municipal authority or any  
30 county, municipality or other person of any moneys theretofore  
31 expended for the purposes of the municipal authority or to any county  
32 or municipality of any moneys theretofore expended for or in  
33 connection with a utility system, including water supply, solid waste  
34 facilities, water distribution, sanitation or hydroelectric facilities;  
35 except that, in connection with solid waste facilities, "cost" means, in  
36 addition to the aforementioned connotations thereof, any expenses  
37 related to: (1) the planning, acquisition, construction, operation and  
38 maintenance of solid waste facilities, including debt service on bonds  
39 issued to finance solid waste facilities; (2) the fulfillment of  
40 interdistrict agreements; (3) the establishment and implementation of  
41 solid waste management programs; (4) the payment of solid waste  
42 taxes; or (5) the payment of host municipality benefits;

43 (12) "Real property" shall mean lands both within or without the  
44 State, and improvements thereof or thereon, or any rights or interests  
45 therein;

46 (13) "Construct" and "construction" shall connote and include

1 acts of construction, reconstruction, replacement, extension,  
2 improvement and betterment of a utility system;

3 (14) "Industrial wastes" shall mean liquid or other wastes resulting  
4 from any processes of industry, manufacture, trade or business or  
5 from the development of any natural resource, and shall include any  
6 chemical wastes or hazardous wastes;

7 (15) "Sewage" shall mean the water-carried wastes created in and  
8 carried, or to be carried, away from, or to be processed by on-site  
9 wastewater systems, residences, hotels, apartments, schools, hospitals,  
10 industrial establishments, or any other public or private building,  
11 together with such surface or ground water and industrial wastes and  
12 leachate as may be present;

13 (16) "On-site wastewater system" means any of several facilities,  
14 septic tanks or other devices, used to collect, treat, reclaim, or dispose  
15 of wastewater or sewage on or adjacent to the property on which the  
16 wastewater or sewage is produced, or to convey such wastewater or  
17 sewage from said property to such facilities as the authority may  
18 establish for its disposal;

19 (17) "Pollution" means the condition of water resulting from the  
20 introduction therein of substances of a kind and in quantities rendering  
21 it detrimental or immediately or potentially dangerous to the public  
22 health, or unfit for public or commercial use;

23 (18) "Bonds" shall mean bonds or other obligations issued pursuant  
24 to [this act] the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.);

25 (19) "Service charges" shall mean water service charges, solid  
26 waste [service] charges, sewer service charges, hydroelectric service  
27 charges or any combination of such charges, as said terms are defined  
28 in section 21 or 22 of [this act] P.L.1957, c.183 (C.40:14B-21 or  
29 40:14B-22) or in section 7 of [this amendatory and supplementary act]  
30 P.L.1980, c.34 (C.40:14B-21.1);

31 (20) "Compensating reservoir" shall mean the structures, facilities  
32 and appurtenances for the impounding, transportation and release of  
33 water for the replenishment in periods of drought or at other necessary  
34 times of all or a part of waters in or bordering the State diverted into  
35 a utility system operated by a municipal authority;

36 (21) "Sewage authority" shall mean a public body created pursuant  
37 to the Sewerage Authorities Law (P.L.1946, c.138) or the acts  
38 amendatory thereof or supplemental thereto;

39 (22) "County sewer authority" shall mean a sanitary sewer district  
40 authority created pursuant to the act entitled "An act relating to the  
41 establishment of sewerage districts in first- and second-class counties,  
42 the creation of Sanitary Sewer District Authorities by the establishing  
43 of such districts, prescribing the powers and duties of any such  
44 authority and of other public bodies in connection with the  
45 construction of sewers and sewage disposal facilities in any such  
46 district, and providing the ways and means for paying the costs of

1 construction and operation thereof," approved April 23, 1946  
2 (P.L.1946, c.123), or the acts amendatory thereof or supplemental  
3 thereto;

4 (23) "Chemical waste" shall mean a material normally generated by  
5 or used in chemical, petrochemical, plastic, pharmaceutical,  
6 biochemical or microbiological manufacturing processes or petroleum  
7 refining processes, which has been selected for waste disposal and  
8 which is known to hydrolyze, ionize or decompose, which is soluble,  
9 burns or oxidizes, or which may react with any of the waste materials  
10 which are introduced into the landfill, or which is buoyant on water,  
11 or which has a viscosity less than that of water or which produces a  
12 foul odor. Chemical waste may be either hazardous or nonhazardous;

13 (24) "Effluent" shall mean liquids which are treated in and  
14 discharged by sewage treatment plants;

15 (25) "Hazardous wastes" shall mean any waste or combination of  
16 waste which poses a present or potential threat to human health, living  
17 organisms or the environment. "Hazardous waste" shall include, but  
18 not be limited to, waste material that is toxic, corrosive, irritating,  
19 sensitizing, radioactive, biologically infectious, explosive or  
20 flammable;

21 (26) "Leachate" shall mean a liquid that has been in contact with  
22 solid waste and contains dissolved or suspended materials from that  
23 solid waste;

24 (27) ["Recycling"] "Resource recovery" shall mean the  
25 [separation,] collection, [processing or] separation, recycling and  
26 recovery of metals, glass, paper[, solid waste] and other materials for  
27 reuse; or the incineration of solid waste for energy production and  
28 [shall include resource recovery] the recovery of metals and other  
29 materials for reuse;

30 (28) "Sludge" shall mean any solid, semisolid, or liquid waste  
31 generated from a municipal, industrial or other sewage treatment plant,  
32 water supply treatment plant, or air pollution control facility, or any  
33 other such waste having similar characteristics and effects; "sludge"  
34 shall not include effluent;

35 (29) "Solid waste" shall mean garbage, refuse, and other discarded  
36 materials resulting from industrial, commercial and agricultural  
37 operations, and from domestic and community activities, and shall  
38 include all other waste materials including [sludge, chemical waste,  
39 hazardous wastes and] liquids, except for [liquids which are treated in  
40 public sewage treatment plants and except for] solid animal and  
41 vegetable wastes collected by swine producers licensed by the State  
42 Department of Agriculture to collect, prepare and feed such wastes to  
43 swine on their own farms;

44 (30) "Solid waste [system] facilities" shall mean and include the  
45 plants, structures and other real and personal property acquired,  
46 constructed or operated or to be acquired, constructed or operated by

1 [an] a municipal authority for, or with respect to, the implementation  
2 of a district solid waste management plan required pursuant to the  
3 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
4 (C.13:1E-1 et seq.) or by any person to whom a municipal authority  
5 has extended credit for this purpose pursuant to the provisions of [this  
6 act] P.L.1984, c.178, including transfer stations, incinerators,  
7 [recycling] resource recovery facilities, [including facilities for the  
8 generation, transmission and distribution of energy derived from the  
9 processing of solid waste,] sanitary landfill facilities or other property  
10 or plants for the collection, recycling or disposal of solid waste and all  
11 vehicles, equipment and other real and personal property and rights  
12 thereon and appurtenances necessary or useful and convenient for the  
13 collection, recycling, or disposal of solid waste in a sanitary manner;

14 (31) "Hydroelectric system" shall mean the plants, structures and  
15 other real and personal property acquired, constructed or operated or  
16 to be acquired, constructed or operated by an authority pursuant to  
17 the provisions of [this act] P.L.1980, c.34, including all that which is  
18 necessary or useful and convenient for the generation, transmission  
19 and sale of hydroelectric power at wholesale;

20 (32) "Hydroelectric power" shall mean the production of electric  
21 current by the energy of moving water;

22 (33) "Sale of hydroelectric power at wholesale" shall mean any sale  
23 of hydroelectric power to any person for purposes of resale of such  
24 power;

25 (34) "Constituent municipality" means any municipality located  
26 within the territorial boundaries of a county that has created a  
27 municipal authority, or any municipality included within the  
28 jurisdiction of a municipal authority pursuant to the provisions of  
29 P.L.1957, c.183 (C.40:14B-1 et seq.), or any combination thereof;

30 (35) "Environmental investments" means any: (a) solid waste  
31 facilities; (b) solid waste management programs; (c) obligation to  
32 fulfill interdistrict agreements; (d) obligation to pay solid waste taxes;  
33 or (e) obligation to pay host municipality benefits;

34 (36) "Environmental investment charges" means the rates, fees or  
35 other charges imposed and collected by a municipal authority for the  
36 payment of environmental investment costs;

37 (37) "Environmental investment costs" means the cost of  
38 environmental investments;

39 (38) "Host municipality benefits" means the payment of annual  
40 economic benefits made to host municipalities required pursuant to  
41 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,  
42 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of  
43 P.L.1985, c.38 (C.48:13A-5.1);

44 (39) "Interdistrict agreement" means a contract or agreement  
45 negotiated between the concerned boards of chosen freeholders, the  
46 Hackensack Commission, a municipal authority, or any combination

1 thereof, for the shared use of registered solid waste facilities;

2 (40) "Recycling" shall mean any process by which materials which  
3 would otherwise become solid waste are collected, separated or  
4 processed and returned to the economic mainstream in the form of raw  
5 materials or products;

6 (41) "Registered solid waste facility" means a solid waste facility  
7 for which the owner or operator thereof has received registration  
8 statement and engineering design approval from the Department of  
9 Environmental Protection pursuant to section 5 of 1970, c.39  
10 (C.13:1E-5);

11 (42) "Solid waste management program" means any program  
12 established by, or on behalf of, a municipal authority for sanitary  
13 landfill facility closure, enforcement, household hazardous waste  
14 management, recycling or other purposes related to the  
15 implementation of a district solid waste management plan required  
16 pursuant to the provisions of the "Solid Waste Management Act,"  
17 P.L.1970, c.39 (C.13:1E-1 et seq.) or a district recycling plan required  
18 pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);

19 (43) "Solid waste taxes" means the taxes imposed pursuant to  
20 section 4 of P.L.1981, c.278 (C.13:1E-95), section 5 of P.L.1981,  
21 c.306 (C.13:1E-104) or section 3 of P.L.1985, c.38 (C.13:1E-138).  
22 (cf: P.L.1984, c.178, s.1)

23

24 47. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to  
25 read as follows:

26 19. [(a)] a. The purposes of every municipal authority shall be (1)  
27 the provision and distribution of an adequate supply of water for the  
28 public and private uses of the local units, and their inhabitants, within  
29 the district, [and] (2) the relief of waters in or bordering the State  
30 from pollution arising from causes within the district and the relief of  
31 waters in, bordering or entering the district from pollution or  
32 threatened pollution, and the consequent improvement of conditions  
33 affecting the public health, (3) the provision of sewage collection and  
34 disposal service within or without the district,[and] (4) the provision  
35 of water supply and distribution service in such areas without the  
36 district as are permitted by the provisions of this act, [and] (5) the  
37 provision of solid waste disposal services [and] or solid waste facilities  
38 within or without the district in a manner consistent with the "Solid  
39 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in  
40 conformance with the district solid waste management plans adopted  
41 by the solid waste management districts created therein, [and] (6) the  
42 generation, transmission and sale of hydroelectric power at wholesale,  
43 and (7) the operation and maintenance of utility systems owned by  
44 other governments located within the district through contracts with  
45 [said] those governments.

46 b. (1) Every municipal authority is authorized to establish and

1 implement a program for the inspection of all solid waste collection  
2 activities or solid waste disposal operations and a program to enforce  
3 the provisions of the system established pursuant to subsection e. of  
4 this section for the collection of environmental investment charges, or  
5 the provisions of any interdistrict agreements, contracts or instruments  
6 executed in connection with the implementation of a district solid  
7 waste management plan or use of any registered solid waste facility.

8 (2) Any municipal authority is authorized to exercise the  
9 enforcement powers conferred on local boards of health or county  
10 health departments pursuant to the provisions of the "County  
11 Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.)  
12 and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise these  
13 powers directly in the manner provided by the aforementioned acts to  
14 local boards of health or county health departments, for the purposes  
15 of enforcing the provisions of the system established pursuant to  
16 subsection e. of this section for the collection of environmental  
17 investment charges.

18 [(b)] c. Every municipal authority is hereby authorized, subject to  
19 the limitations of [this act] P.L.1957, c.183 (C.40:14B-1 et seq.), to  
20 acquire, in its own name but for the local unit or units, by purchase,  
21 gift, condemnation or otherwise, lease as lessee, and, notwithstanding  
22 the provisions of any charter, ordinance or resolution of any county or  
23 municipality to the contrary, to construct, maintain, operate and use  
24 such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,  
25 pipelines, mains, pumping and ventilating stations, treatment,  
26 purification and filtration plants or works, trunk, intercepting and  
27 outlet sewers, water distribution systems, waterworks, sources of  
28 water supply and wells at such places within or without the district,  
29 such compensating reservoirs within a county in which any part of the  
30 district lies, and such other plants, structures, boats and conveyances,  
31 as in the judgment of the municipal authority will provide an effective  
32 and satisfactory method for promoting purposes of the municipal  
33 authority.

34 [(c)] d. Every municipal authority is hereby authorized and  
35 directed, when in its judgment its sewerage system or any part thereof  
36 will permit, to collect from any and all public systems within the  
37 district all sewage and treat and dispose of the same in such manner as  
38 to promote purposes of the municipal authority.

39 e. Every municipal authority is hereby authorized to calculate,  
40 charge and collect environmental investment charges to recover the  
41 environmental investment costs of the municipal authority.

42 A municipal authority may enter into an agreement with the  
43 governing body of the county wherein the registered solid waste  
44 facility of the municipal authority is located providing for the  
45 assumption by the county of the responsibility for the collection of  
46 environmental investment charges.

1 Environmental investment charges may be imposed and collected by  
2 a municipal authority or county: (1) as the environmental investment  
3 cost component of a consolidated bill comprised of solid waste  
4 disposal charges and environmental investment charges collected from  
5 users at the registered solid waste facility; (2) as an item in the  
6 municipal budget or county budget, or any combination thereof, for  
7 the payment of environmental investment costs; or (3) in any other  
8 manner reasonably established by the municipal authority or county.

9 f. Environmental investment charges may be collected by a  
10 municipal authority or county, without limitation, from:

11 (1) every solid waste generator included within the jurisdiction of  
12 the municipal authority or county, regardless of whether a particular  
13 solid waste generator utilizes the registered solid waste facility for  
14 solid waste disposal, through the implementation of a unit charge  
15 based upon: (a) the average annual amount of solid waste generated  
16 by a particular solid waste generator, as measured in tons, during the  
17 previous five years; (b) the average annual amount of solid waste  
18 accepted for disposal at the registered solid waste facility from a  
19 particular solid waste generator, as measured in tons, during the  
20 previous five years; or (c) any other criteria reasonably established by  
21 the municipal authority or county;

22 (2) every constituent municipality that utilizes or has previously  
23 utilized the registered solid waste facility, through the implementation  
24 of an assessment against constituent municipalities based upon: (a) the  
25 average annual aggregate amount of solid waste generated within the  
26 boundaries of a particular constituent municipality from all sources of  
27 generation, as measured in tons, during the previous five years; (b) the  
28 average annual amount of solid waste accepted for disposal at the  
29 registered solid waste facility from all sources of generation within the  
30 boundaries of a particular constituent municipality, as measured in  
31 tons, during the previous five years; or (c) any other criteria  
32 reasonably established by the municipal authority or county;

33 (3) the county wherein the registered solid waste facility is located,  
34 through the implementation of an assessment against the county based  
35 upon: (a) the average annual aggregate amount of solid waste  
36 generated within the boundaries of the county from all sources of  
37 generation, as measured in tons, during the previous five years; (b) the  
38 average annual amount of solid waste accepted for disposal at the  
39 registered solid waste facility from all sources of generation within the  
40 boundaries of the county, as measured in tons, during the previous five  
41 years; or (c) any other criteria reasonably established by the municipal  
42 authority or county;

43 (4) any other county or public authority as defined in section 3 of  
44 P.L. , c. (C. )(pending in the Legislature as this bill) that  
45 has entered into an interdistrict agreement with the municipal authority  
46 for the disposal of out-of-county solid waste, through the

1 implementation of an assessment against the sending county based  
2 upon: (a) the average annual aggregate amount of out-of-county solid  
3 waste generated within the boundaries of the sending county from all  
4 sources of generation, as measured in tons, during the previous five  
5 years; (b) the average annual amount of out-of-county solid waste  
6 accepted for disposal at the registered solid waste facility from all  
7 sources of generation within the boundaries of the sending county, as  
8 measured in tons, during the previous five years; or (c) any other  
9 criteria reasonably established by the municipal authority or county.  
10 (cf: P.L.1980, c.34, s.6)

11

12 48. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to  
13 read as follows:

14 20. Every municipal authority shall be a public body politic and  
15 corporate constituting a political subdivision of the State established  
16 as an instrumentality exercising public and essential governmental  
17 functions to provide for the public health and welfare and shall have  
18 perpetual succession and have the following powers:

19 (1) To adopt and have a common seal and to alter the same at  
20 pleasure;

21 (2) To sue and be sued;

22 (3) In the name of the municipal authority and on its behalf, to  
23 acquire, hold, use and dispose of its service charges and other  
24 revenues and other moneys;

25 (4) In the name of the municipal authority but for the local unit or  
26 units, to acquire, rent, hold, lease as lessor, use and dispose of other  
27 personal property for the purposes of the municipal authority;

28 (5) In the name of the municipal authority but for the local unit or  
29 units and subject to the limitations of this act, to acquire by purchase,  
30 gift, condemnation or otherwise, or lease as lessee, real property and  
31 easements therein, necessary or useful and convenient for the purposes  
32 of the municipal authority, and subject to mortgages, deeds of trust or  
33 other liens, or otherwise, and to hold, lease as lessor, and to use the  
34 same, and to dispose of property so acquired no longer necessary for  
35 the purposes of the municipal authority;

36 (6) To produce, develop, purchase, accumulate, distribute and sell  
37 water and water services, facilities and products within or without the  
38 district, provided that no water shall be sold at retail in any  
39 municipality without the district unless the governing body of [such]  
40 the municipality shall have adopted a resolution requesting the  
41 municipal authority to sell water at retail in [such] the municipality,  
42 and the [board of public utility commissioners] Board of Public  
43 Utilities shall have approved [such] the resolution as necessary and  
44 proper for the public convenience;

45 (7) To provide for and secure the payment of any bonds and the  
46 rights of the holders thereof, and to purchase, hold and dispose of any

1 bonds;

2 (8) To accept gifts or grants of real or personal property, money,  
3 material, labor or supplies for the purposes of the municipal authority,  
4 and to make and perform such agreements and contracts as may be  
5 necessary or convenient in connection with the procuring, acceptance  
6 or disposition of such gifts or grants;

7 (9) To enter on any lands, waters or premises for the purpose of  
8 making surveys, borings, soundings and examinations for the purposes  
9 of the municipal authority, and whenever the operation of a septic tank  
10 or other component of an on-site wastewater system shall result in the  
11 creation of pollution or contamination source on private property such  
12 that under the provisions of R.S.26:3-49, a local board of health would  
13 have the authority to notify the owner and require said owner to abate  
14 the same, representatives of an authority shall have the power to enter,  
15 at all reasonable times, any premises on which [such] the pollution or  
16 contamination source shall exist, for the purpose of inspecting,  
17 rehabilitating, securing samples of any discharges, improving,  
18 repairing, replacing, or upgrading [such] the septic tank or other  
19 component of an on-site wastewater system;

20 (10) To establish an inspection program to be performed at least  
21 once every three years on all on-site wastewater systems installed  
22 within the district which inspection program shall contain the  
23 following minimum notice provisions: (i) not less than 30 days prior  
24 to the date of the inspection of any on-site wastewater system as  
25 described herein, the authority shall notify the owner and resident of  
26 the property that the inspection will occur; and (ii) not less than 60  
27 days prior to the date of the performance of any work other than an  
28 inspection, the municipal authority shall provide notice to the owner  
29 and resident of the property in which the work will be performed.  
30 The notice to be provided to such owner and resident under this  
31 subsection shall include a description of the deficiency which  
32 necessitates the work and the proposed remedial action, and the  
33 proposed date for beginning and duration of the contemplated remedial  
34 action;

35 (11) To prepare and file in the office of the municipal authority  
36 records of all inspections, rehabilitation, maintenance, and work,  
37 performed with respect to on-site wastewater disposal systems;

38 (12) To make and enforce bylaws or rules and regulations for the  
39 management and regulation of its business and affairs and for the use,  
40 maintenance and operation of the utility system and any other of its  
41 properties, and to amend the same;

42 (13) To do and perform any acts and things authorized by [this act]  
43 the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.) under, through  
44 or by means of its own officers, agents and employees, or by contracts  
45 with any person;

46 (14) To enter into any and all contracts, execute any and all

1 instruments, and do and perform any and all acts or things necessary,  
2 convenient or desirable for the purposes of the municipal authority or  
3 to carry out any power expressly given in [this act] the provisions of  
4 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to "Local Public  
5 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); [and]

6 (15) To extend credit or make loans to any person for the planning,  
7 designing, acquiring, constructing, reconstructing, improving,  
8 equipping, furnishing, and operating by that person of any part of [a  
9 solid waste system] solid waste facilities, or a sewage treatment  
10 system, wastewater treatment or collection system for the provision of  
11 services and facilities within or without the district, which in the case  
12 of [a solid waste system] solid waste facilities shall be in a manner  
13 consistent with the "Solid Waste Management Act," P.L.1970, c. 39  
14 (C.13:1E-1 et seq.) and in conformance with the district solid waste  
15 management plans adopted by the solid waste management districts  
16 created therein. The credits or loans may be secured by loan and  
17 security agreements, mortgages, leases and any other instruments,  
18 upon [such] the terms as the authority shall deem reasonable, including  
19 provision for the establishment and maintenance of reserve and  
20 insurance funds, and to require the inclusion in any mortgage, lease,  
21 contract, loan and security agreement or other instrument, provisions  
22 for the construction, use, operation and maintenance and financing of  
23 that part of the aforementioned systems as the municipal authority may  
24 deem necessary or desirable;

25 (16) To calculate, charge and collect environmental investment  
26 charges to recover the environmental investment costs of the municipal  
27 authority; and

28 (17) To establish and implement a program for the inspection of all  
29 solid waste collection activities or solid waste disposal operations and  
30 a program to enforce the provisions of the system established pursuant  
31 to subsection e. of section 19 of P.L.1957, c.183 (C.40:14B-19) for  
32 the collection of environmental investment charges, or the provisions  
33 of any interdistrict agreements, contracts or instruments executed in  
34 connection with the implementation of a district solid waste  
35 management plan or use of any registered solid waste facility.

36 (cf: P.L.1984, c.178, s.2)

37

38 49. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended to  
39 read as follows:

40 15. a. Every municipal authority is hereby authorized to charge and  
41 collect rents, rates, fees or other charges ([in this act sometimes]  
42 hereinafter referred to as "solid waste [service] charges") for the use  
43 or services of [the solid waste system] solid waste facilities acquired,  
44 constructed or operated or to be acquired, constructed or operated by,  
45 or on behalf of, the municipal authority. [Such] The solid waste  
46 [service] charges may be charged to and collected from any

1 constituent municipality or any person contracting for such use or  
2 services or from the owner or occupant, or both of them, of any real  
3 property from or on which originates or has originated any solid waste  
4 to be [treated by] disposed at the solid waste [system] facilities of the  
5 municipal authority, and the owner of any such real property shall be  
6 liable for and shall pay [such] the solid waste [service] charges to the  
7 municipal authority at the time when and place where [such] the solid  
8 waste [service] charges are due and payable.

9 [Such rents, rates, fees and]

10 b. The solid waste charges, being in the nature of use or service  
11 charges, shall as nearly as the municipal authority shall deem  
12 practicable and equitable be uniform throughout the county for the  
13 same type, class and amount of use or service of the solid waste  
14 [system] facilities, except as permitted by section 1 of P.L.1992, c.215  
15 (C.40:14B-22.2), and may be based or computed on any factors  
16 determining the type, class and amount of use or service of the solid  
17 waste [system] facilities, and may give weight to the characteristics of  
18 the solid waste and any other special matter affecting the cost of  
19 [treatment and disposal of the same] solid waste collection, disposal  
20 or recycling.

21 Any municipal authority that enters into an interdistrict agreement  
22 with another county or public authority as defined in section 3 of  
23 P.L. , c. (C. )(pending in the Legislature as this bill) for the  
24 shared use of solid waste facilities acquired, constructed or operated  
25 or to be acquired, constructed or operated by, or on behalf of, the  
26 municipal authority is authorized to calculate, charge and collect  
27 differential solid waste charges for the out-of-county solid waste  
28 accepted for disposal at the solid waste facilities from the sending  
29 county or public authority, provided that the sending county or public  
30 authority has agreed to the payment of environmental investment  
31 charges on a voluntary basis.

32 c. In the event that the environmental investment charges of a  
33 municipal authority pursuant to subsection e. of section 19 of  
34 P.L.1957, c.183 (C.40:14B-19) with regard to any parcel of real  
35 property owned by any person, other than the State or an agency or  
36 subdivision thereof, shall not be paid as and when due, the unpaid  
37 balance thereof, and all interest accruing thereon, shall be a lien on the  
38 parcel. The lien shall be superior and paramount to the interest in the  
39 parcel of any owner, lessee, tenant, mortgagee or other person except  
40 the lien of municipal taxes and shall be on a parity with and deemed  
41 equal to the lien on the parcel of the municipality wherein the parcel  
42 is situated for taxes thereon due in the same year and not paid as and  
43 when due. Whenever the environmental investment charges, and any  
44 interest accrued thereon, shall have been fully paid to the municipal  
45 authority or county, the lien shall be promptly withdrawn or canceled  
46 by the municipal authority or county.

1     The collector or other officer of every municipality charged by law  
2 with the duty of enforcing municipal liens on real property shall  
3 enforce, in the same manner as with any other municipal lien on real  
4 property in the municipality, all environmental investment charges and  
5 the lien thereof shown in any statement filed with the collector or  
6 officer by a municipal authority or county pursuant to the provisions  
7 of this subsection, and shall pay over to the municipal authority or  
8 county the sums or a pro rata share of the sums realized upon the  
9 enforcement or liquidation of any property acquired by the  
10 municipality by virtue of the enforcement action.

11     In the event that the environmental investment charges of a  
12 municipal authority or county shall not be paid as and when due,  
13 notwithstanding any other remedies available to the municipal  
14 authority or county, the unpaid balance thereof, and any interest  
15 accrued thereon, together with attorney's fees and costs, may be  
16 recovered by the municipal authority or county in a civil action, and  
17 any lien on real property for the environmental investment charges,  
18 and any interest accrued thereon, may be foreclosed or otherwise  
19 enforced by the municipal authority or county by action or suit in  
20 equity as for the foreclosure of a mortgage on the real property.

21     All rights and remedies provided in this subsection for the collection  
22 and enforcement of environmental investment charges shall be  
23 cumulative and concurrent.

24     d. Upon the establishment of a system to calculate, charge and  
25 collect environmental investment charges to recover the environmental  
26 investment costs of the municipal authority, but prior to the  
27 implementation thereof, the municipal authority shall hold a public  
28 hearing thereon at least 20 days after notice of the proposed  
29 implementation has been mailed to the clerk of each constituent  
30 municipality located within the boundaries of the county wherein the  
31 registered solid waste facility is located, and after publication of the  
32 notice of the proposed implementation and the time and place of the  
33 public hearing in at least two newspapers of general circulation within  
34 the county.

35 (cf: P.L.1992, c.215, s.3)

36

37     50. Section 23 of P.L.1957, c.183 (C.40:14B-23) is amended to  
38 read as follows:

39     23. a. Every municipal authority shall prescribe and from time to  
40 time when necessary revise a schedule of all its service charges, which  
41 may provide a single rent, rate, fee or charge for any of its utility  
42 charges and which shall comply with the terms of any contract of the  
43 municipal authority and may be such that the revenues of the municipal  
44 authority will at all times be adequate to pay the expenses of operation  
45 and maintenance of the utility system, including reserves, insurance,  
46 extensions, and replacements, and to pay the principal of and interest

1 on any bonds and to maintain such reserves or sinking funds therefor  
2 as may be required by the terms of any contract of the municipal  
3 authority or as may be deemed necessary or desirable by the municipal  
4 authority.

5 [Said] b. The schedule shall thus be prescribed and from time to  
6 time revised by the municipal authority after public hearing thereon  
7 which shall be held by the municipal authority at least 20 days after  
8 notice of the proposed adjustment is mailed to the clerk of each  
9 municipality serviced by the authority and publication of notice of the  
10 proposed adjustment of the service charges and of the time and place  
11 of the public hearing in at least two newspapers of general circulation  
12 in the area serviced by the authority. The municipal authority shall  
13 provide evidence at the hearing showing that the proposed adjustment  
14 of the service charges is necessary and reasonable, and shall provide  
15 the opportunity for cross-examination of persons offering such  
16 evidence, and a transcript of the hearing shall be made and a copy  
17 thereof shall be available upon request to any interested party at a  
18 reasonable fee. The municipal authority shall likewise fix and  
19 determine the time or times when and the place or places where such  
20 service charges shall be due and payable and may require that such  
21 service charges shall be paid in advance for periods of not more than  
22 one year. A copy of such schedule of service charges in effect shall at  
23 all times be kept on file at the principal office of the municipal  
24 authority and shall at all reasonable times be open to public inspection.

25 c. Notwithstanding the foregoing, the provisions of this section  
26 shall not apply to the environmental investment charges authorized  
27 and collected pursuant to subsection e. of section 19 of P.L.1957,  
28 c.183 (C.40:14B-19).

29 (cf: P.L.1960, c.183, s.15)

30

31 51. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to  
32 read as follows:

33 2. As used in this act[, unless a different meaning clearly appears  
34 from the context]:

35 (a) "Authority" shall mean a public body created pursuant to [this  
36 act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

37 (b) "Bond resolution" shall have the meaning ascribed thereto in  
38 section 17 of P.L.1960, c.183 (C.40:37A-60);

39 (c) "Bonds" shall mean bonds, notes or other obligations issued  
40 pursuant to [this act] the provisions of P.L.1960, c.183 (C.40:37A-44  
41 et seq.);

42 (d) "Construct" and "construction" shall connote and include acts  
43 of clearance, demolition, construction, development or redevelopment,  
44 reconstruction, replacement, extension, improvement and betterment;

45 (e) "Cost" shall mean, in addition to the usual connotations thereof,  
46 the cost of planning, acquisition or construction of all or any part of

1 any public facility or facilities of an authority and of all or any  
2 property, rights, easements, privileges, agreements and franchises  
3 deemed by the authority to be necessary or useful and convenient  
4 therefor or in connection therewith, including interest or discount on  
5 bonds, cost of issuance of bonds, architectural, engineering and  
6 inspection costs and legal expenses, cost of financial, professional and  
7 other estimates and advice, organization, administrative, operating and  
8 other expenses of the authority prior to and during such acquisition or  
9 construction, and all such other expenses as may be necessary or  
10 incident to the financing, acquisition, construction and completion of  
11 such public facility or facilities or part thereof and the placing of the  
12 same fully in operation or the disposition of the same, and also such  
13 provision or reserves for working capital, operating, maintenance or  
14 replacement expenses or for payment or security of principal of or  
15 interest on bonds during or after such acquisition or construction as  
16 the authority may determine, and also reimbursements to the authority  
17 or any governmental unit or person of any moneys theretofore  
18 expended for the purposes of the authority; except that, in connection  
19 with solid waste facilities, "cost" means, in addition to the  
20 aforementioned connotations thereof, any expenses related to: (1) the  
21 planning, acquisition, construction, operation and maintenance of solid  
22 waste facilities, including debt service on bonds issued to finance solid  
23 waste facilities; (2) the fulfillment of interdistrict agreements; (3) the  
24 establishment and implementation of solid waste management  
25 programs; (4) the payment of solid waste taxes; or (5) the payment of  
26 host municipality benefits;

27 (f) The term "county" shall mean any county of any class of the  
28 State and shall include, without limitation, the terms "the county" and  
29 "beneficiary county" defined in this [act] section, and the term "the  
30 county" shall mean the county which created an authority pursuant to  
31 [this act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

32 (g) "Development project" shall mean any lands, structures, or  
33 property or facilities acquired or constructed or to be acquired or  
34 constructed by an authority for the purposes of the authority described  
35 in subsection (e) of section 11 of P.L.1960, c.183 (C.40:37A-54);

36 (h) "Facility charges" shall have the meaning ascribed to said term  
37 in section 14 of P.L.1960, c.183 (C.40:37A-57);

38 (i) "Facility revenues" shall have the meaning ascribed to said term  
39 in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-63);

40 (j) "Governing body" shall mean, in the case of a county, the board  
41 of chosen freeholders, or in the case of a county operating under  
42 article 3 or 5 of the "Optional County Charter Law" (P.L.1972, c.154;  
43 C.40:41A-1 et seq.) as defined thereunder, and, in the case of a  
44 municipality, the commission, council, board or body, by whatever  
45 name it may be known, having charge of the finances of the  
46 municipality;

1 (k) "Governmental unit" shall mean the United States of America  
2 or the State or any county or municipality or any subdivision,  
3 department, agency, or instrumentality heretofore or hereafter created,  
4 designated or established by or for the United States of America or the  
5 State or any county or municipality;

6 (l) "Local bond law" shall mean chapter 2 of Title 40A,  
7 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as  
8 amended and supplemented;

9 (m) "Municipality" shall mean any city, borough, village, town, or  
10 township of the State but not a county or a school district;

11 (n) "Person" shall mean any person, partnership, association,  
12 corporation or entity other than a nation, state, county or municipality  
13 or any subdivision, department, agency or instrumentality thereof;

14 (o) "Project" shall have the meaning ascribed to said term in  
15 section 17 of P.L.1960, c.183 (C.40:37A-60);

16 (p) "Public facility" shall mean any lands, structures, franchises,  
17 equipment, or other property or facilities acquired, constructed,  
18 owned, financed, or leased by the authority or any other governmental  
19 unit or person to accomplish any of the purposes of an authority  
20 authorized by section 11 of P.L.1960, c.183 (C.40:37A-54);

21 (q) "Real property" shall mean lands within or without the State,  
22 above or below water, and improvements thereof or thereon, or any  
23 riparian or other rights or interests therein;

24 (r) "[Garbage and solid waste disposal system] Solid waste  
25 facilities" shall mean the plants, structures and other real and personal  
26 property acquired, constructed or operated or to be acquired,  
27 constructed or operated by a county improvement authority for, or  
28 with respect to, the implementation of a district solid waste  
29 management plan required pursuant to the provisions of the "Solid  
30 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
31 including transfer stations, incinerators, resource recovery facilities,  
32 sanitary landfill facilities or other plants for the [treatment and]  
33 disposal of [garbage,] solid waste [and refuse matter] and all other  
34 real and personal property and rights therein and appurtenances  
35 necessary or useful and convenient for the collection [and treatment],  
36 recycling or disposal of solid waste in a sanitary manner [of garbage,  
37 solid waste and refuse matter (but not including sewage)];

38 (s) "[Garbage, solid] Solid waste [or refuse matter]" shall mean  
39 garbage, refuse and other discarded materials resulting from industrial,  
40 commercial and agricultural operations, and from domestic and  
41 community activities, and shall include all other waste materials  
42 including [sludge, chemical waste, hazardous wastes and] liquids,  
43 [except for liquids which are treated in public sewage treatment plants  
44 and] except for solid animal and vegetable wastes collected by swine  
45 producers licensed by the State Department of Agriculture to collect,  
46 prepare and feed such wastes to swine on their own farms;

1 (t) "Blighted, deteriorated or deteriorating area" may include an  
2 area determined heretofore by the municipality to be blighted in  
3 accordance with the provisions of P.L.1949, c.187, repealed by  
4 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are  
5 determined by the municipality, pursuant to the same procedures as  
6 provided in said law, to be blighted, deteriorated or deteriorating  
7 because of structures or improvements which are dilapidated or  
8 characterized by disrepair, lack of ventilation or light or sanitary  
9 facilities, faulty arrangement, location, or design, or other unhealthful  
10 or unsafe conditions;

11 (u) "Redevelopment" may include planning, replanning,  
12 conservation, rehabilitation, clearance, development and  
13 redevelopment; and the construction and rehabilitation and provision  
14 for construction and rehabilitation of residential, commercial,  
15 industrial, public or other structures and the grant or dedication or  
16 rededication of spaces as may be appropriate or necessary in the  
17 interest of the general welfare for streets, parks, playgrounds, or other  
18 public purposes including recreational and other facilities incidental or  
19 appurtenant thereto, in accordance with a redevelopment plan  
20 approved by the governing body of a municipality;

21 (v) "Redevelopment plan" shall mean a plan as it exists from time  
22 to time for the redevelopment of all or any part of a redevelopment  
23 area, which plan shall be sufficiently complete to indicate such land  
24 acquisition, demolition and removal of structures, redevelopment,  
25 improvements, conservation or rehabilitation as may be proposed to  
26 be carried out in the area of the project, zoning and planning changes,  
27 if any, land uses, maximum densities, building requirements, the plan's  
28 relationship to definite local objectives respecting appropriate land  
29 uses, improved traffic, public transportation, public utilities,  
30 recreational and community facilities, and other public improvements  
31 and provision for relocation of any residents and occupants to be  
32 displaced in a manner which has been or is likely to be approved by the  
33 Department of Community Affairs pursuant to the "Relocation  
34 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the  
35 "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) and  
36 rules and regulations pursuant thereto;

37 (w) "Redevelopment project" shall mean any undertakings and  
38 activities for the elimination, and for the prevention of the  
39 development or spread, of blighted, deteriorated, or deteriorating  
40 areas and may involve any work or undertaking pursuant to a  
41 redevelopment plan; such undertaking may include: (1) acquisition of  
42 real property and demolition, removal or rehabilitation of buildings and  
43 improvements thereon; (2) carrying out plans for a program of  
44 voluntary repair and rehabilitation of buildings or other improvements;  
45 and (3) installation, construction or reconstruction of streets, utilities,  
46 parks, playgrounds or other improvements necessary for carrying out

- 1 the objectives of the redevelopment project;
- 2 (x) "Redeveloper" shall mean any person or governmental unit that  
3 shall enter into or propose to enter into a contract with an authority  
4 for the redevelopment of an area or any part thereof under the  
5 provisions of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);
- 6 (y) "Redevelopment area" shall mean an area of a municipality  
7 which the governing body thereof finds is a blighted area or an area in  
8 need of rehabilitation whose redevelopment is necessary to effectuate  
9 the public purposes declared in [this act] the provisions of P.L.1960,  
10 c.183 (C.40:37A-44 et seq.). A redevelopment area may include  
11 lands, buildings, or improvements which of themselves are not  
12 detrimental to the public health, safety or welfare, but whose inclusion  
13 is found necessary, with or without change in their condition, for the  
14 effective redevelopment of the area of which they are a part;
- 15 (z) ["Sludge" shall mean any solid, semisolid, or liquid waste  
16 generated from a municipal, industrial or other sewage treatment plant,  
17 water supply treatment plant, or air pollution control facility, or any  
18 other such waste having similar characteristics and effects, but shall  
19 not include effluent; and] (Deleted by amendment, P.L. \_\_\_\_\_,  
20 c. )(pending in the Legislature as this bill)
- 21 (aa) "Beneficiary county" shall mean any county that has not  
22 created an authority pursuant to [this act]the provisions of P.L.1960,  
23 c.183 (C.40:37A-44 et seq.);
- 24 (bb) "Constituent municipality" means any municipality located  
25 within the territorial boundaries of a county that has created an  
26 authority, or any municipality included within the jurisdiction of an  
27 authority pursuant to the provisions of P.L.1960, c.183 (C.40:37A-44  
28 et seq.), or any combination thereof;
- 29 (cc) "Environmental investments" means any: (a) solid waste  
30 facilities; (b) solid waste management programs; (c) obligation to  
31 fulfill interdistrict agreements; (d) obligation to pay solid waste taxes;  
32 or (e) obligation to pay host municipality benefits;
- 33 (dd) "Environmental investment charges" means the rates, fees or  
34 other charges imposed and collected by an authority for the payment  
35 of environmental investment costs;
- 36 (ee) "Environmental investment costs" means the cost of  
37 environmental investments;
- 38 (ff) "Host municipality benefits" means the payment of annual  
39 economic benefits made to host municipalities required pursuant to  
40 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,  
41 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of  
42 P.L.1985, c.38 (C.48:13A-5.1);
- 43 (gg) "Interdistrict agreement" means a contract or agreement  
44 negotiated between the concerned boards of chosen freeholders, the  
45 Hackensack Commission, an authority, or any combination thereof, for  
46 the shared use of registered solid waste facilities;

1        (hh) "Registered solid waste facility" means a solid waste facility  
2 for which the owner or operator thereof has received registration  
3 statement and engineering design approval from the Department of  
4 Environmental Protection pursuant to section 5 of 1970, c.39  
5 (C.13:1E-5);

6        (ii) "Solid waste management program" means any program  
7 established by, or on behalf of, an authority for sanitary landfill facility  
8 closure, enforcement, household hazardous waste management,  
9 recycling or other purposes related to the implementation of a district  
10 solid waste management plan required pursuant to the provisions of  
11 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
12 seq.) or a district recycling plan required pursuant to section 3 of  
13 P.L.1987, c.102 (C.13:1E-99.13);

14        (jj) "Solid waste taxes" means the taxes imposed pursuant to  
15 section 4 of P.L.1981, c.278 (C.13:1E-95), section 5 of P.L.1981,  
16 c.306 (C.13:1E-104) or section 3 of P.L.1985, c.38 (C.13:1E-138).

17 (cf: P.L.1994, c.76, s.1)

18

19        52. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to  
20 read as follows:

21        11. The purposes of every authority shall be (a) provision within  
22 the county or any beneficiary county of public facilities for use by the  
23 State, the county or any beneficiary county, or any municipality in any  
24 such county, or any two or more or any subdivisions, departments,  
25 agencies or instrumentalities of any of the foregoing for any of their  
26 respective governmental purposes, including the authority to calculate,  
27 charge and collect environmental investment charges to recover the  
28 environmental investment costs of the authority. (b) provision within  
29 the county or any beneficiary county of public facilities for use as  
30 convention halls, or the rehabilitation, improvement or enlargement of  
31 any convention hall, including appropriate and desirable appurtenances  
32 located within the convention hall or near, adjacent to or over it within  
33 boundaries determined at the discretion of the authority, including but  
34 not limited to office facilities, commercial facilities, community service  
35 facilities, parking facilities, hotel facilities and other facilities for the  
36 accommodation and entertainment of tourists and visitors, (c)  
37 provision within the county or any beneficiary county of structures,  
38 franchises, equipment and facilities for operation of public  
39 transportation or for terminal purposes, including development and  
40 improvement of port terminal structures, facilities and equipment for  
41 public use in counties in, along or through which a navigable river  
42 flows, (d) provision within the county or any beneficiary county of  
43 structures or other facilities used or operated by the authority or any  
44 governmental unit in connection with, or relative to development and  
45 improvement of, aviation for military or civilian purposes, including  
46 research in connection therewith, and including structures or other

1 facilities for the accommodation of passengers, (e) provision within the  
2 county or any beneficiary county of a public facility for a combination  
3 of governmental and nongovernmental uses; provided that not more  
4 than 50% of the usable space in any such facility shall be made  
5 available for nongovernmental use under a lease or other agreement by  
6 or with the authority, (f) acquisition of any real property within the  
7 county or any beneficiary county, with or without the improvements  
8 thereof or thereon or personal property appurtenant or incidental  
9 thereto, from the United States of America or any department, agency  
10 or instrumentality heretofore or hereafter created, designated or  
11 established by or for it, and the clearance, development or  
12 redevelopment, improvement, use or disposition of the acquired lands  
13 and premises in accordance with the provisions and for the purposes  
14 stated in this act, including the construction, reconstruction,  
15 demolition, rehabilitation, conversion, repair or alteration of  
16 improvements on or to said lands and premises, and structures and  
17 facilities incidental to the foregoing as may be necessary, convenient  
18 or desirable, (g) acquisition, construction, maintenance and operation  
19 of [garbage and solid waste disposal systems] solid waste facilities for  
20 the purpose of collecting [and], disposing or recycling of  
21 [garbage,]solid waste [or refuse matter], whether owned or operated  
22 by any person, the authority or any other governmental unit, within or  
23 without the county or any beneficiary county, including the  
24 establishment and implementation of a system to calculate, charge and  
25 collect environmental investment charges to recover the environmental  
26 investment costs of the authority, and establishment and  
27 implementation of a program for the inspection of all solid waste  
28 collection activities or solid waste disposal operations and a program  
29 to enforce the provisions of the system established for the collection  
30 of environmental investment charges pursuant to section 14 of  
31 P.L.1960, c.183 (C.40:37A-57), (h) the improvement, furtherance and  
32 promotion of the tourist industries and recreational attractiveness of  
33 the county or any beneficiary county through the planning, acquisition,  
34 construction, improvement, maintenance and operation of facilities for  
35 the recreation and entertainment of the public, which facilities may  
36 include, without being limited to, a center for the performing and  
37 visual arts, (i) provision of loans and other financial assistance and  
38 technical assistance for the construction, reconstruction, demolition,  
39 rehabilitation, conversion, repair or alteration of buildings or facilities  
40 designed to provide decent, safe and sanitary dwelling units for  
41 persons of low and moderate income in need of housing, including the  
42 acquisition of land, equipment or other real or personal properties  
43 which the authority determines to be necessary, convenient or  
44 desirable appurtenances, all in accordance with the provisions of this  
45 act, as amended and supplemented, (j) planning, initiating and carrying  
46 out redevelopment projects for the elimination, and for the prevention

1 of the development or spread of blighted, deteriorated or deteriorating  
2 areas and the disposition, for uses in accordance with the objectives of  
3 the redevelopment project, of any property or part thereof acquired in  
4 the area of such project, (k) any combination or combinations of the  
5 foregoing or following, and (l) subject to the prior approval of the  
6 Local Finance Board, the planning, design, acquisition, construction,  
7 improvement, renovation, installation, maintenance and operation of  
8 facilities or any other type of real or personal property within the  
9 county or any beneficiary county for a corporation or other person  
10 organized for any one or more of the purposes described in subsection  
11 a. of N.J.S.15A:2-1 except those facilities or any other type of real or  
12 personal property which can be financed pursuant to the provisions of  
13 P.L.1972, c.29 (C.26:2I-1 et seq.) as amended.  
14 (cf: P.L.1994, c.110, s.1)

15

16 53. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to  
17 read as follows:

18 12. Every authority shall be a public body politic and corporate  
19 constituting a political subdivision of the State established as an  
20 instrumentality exercising public and essential governmental functions  
21 to provide for the public convenience, benefit and welfare and shall  
22 have perpetual succession and, for the effectuation of its purposes,  
23 have the following additional powers:

24 (a) To adopt and have a common seal and to alter the same at  
25 pleasure;

26 (b) To sue and be sued;

27 (c) To acquire, hold, use and dispose of its facility charges and  
28 other revenues and other moneys;

29 (d) To acquire, rent, hold, use and dispose of other personal  
30 property for the purposes of the authority;

31 (e) Subject to the provisions of section 26 of [this act] P.L.1960,  
32 c.183 (C.40:37A-69), to acquire by purchase, gift, condemnation or  
33 otherwise, or lease as lessee, real property and easements or interests  
34 therein necessary or useful and convenient for the purposes of the  
35 authority, whether subject to mortgages, deeds of trust or other liens  
36 or otherwise, and to hold and to use the same, and to dispose of  
37 property so acquired no longer necessary for the purposes of the  
38 authority; provided that the authority may dispose of such property at  
39 any time to any governmental unit or person if the authority shall  
40 receive a leasehold interest in the property for such term as the  
41 authority deems appropriate to fulfill its purposes;

42 (f) Subject to the provisions of section 13 of [this act] P.L.1960,  
43 c.183 (C.40:37A-56), to lease to any governmental unit or person, all  
44 or any part of any public facility for such consideration and for such  
45 period or periods of time and upon such other terms and conditions as  
46 it may fix and agree upon;

1 (g) To enter into agreements to lease, as lessee, public facilities for  
2 such term and under such conditions as the authority may deem  
3 necessary and desirable to fulfill its purposes, and to agree, pursuant  
4 thereto, to be unconditionally obligated to make payments for the term  
5 of the lease, without set-off or counterclaim, whether or not the public  
6 facility is completed, operating or operable, and notwithstanding the  
7 destruction of, damage to, or suspension, interruption, interference,  
8 reduction or curtailment of the availability or output of the public  
9 facility to which the agreement applies;

10 (h) To extend credit or make loans to any governmental unit or  
11 person for the planning, design, acquisition, construction, equipping  
12 and furnishing of a public facility, upon the terms and conditions that  
13 the loans be secured by loan and security agreements, mortgages,  
14 leases and other instruments, the payments on which shall be sufficient  
15 to pay the principal of and interest on any bonds issued for the purpose  
16 by the authority, and upon such other terms and conditions as the  
17 authority shall deem reasonable;

18 (i) Subject to the provisions of section 13 of [this act] P.L.1960,  
19 c.183 (C.40:37A-56), to make agreements of any kind with any  
20 governmental unit or person for the use or operation of all or any part  
21 of any public facility for such consideration and for such period or  
22 periods of time and upon such other terms and conditions as it may fix  
23 and agree upon;

24 (j) To borrow money and issue negotiable bonds or notes or other  
25 obligations and provide for and secure the payment of any bonds and  
26 the rights of the holders thereof, and to purchase, hold and dispose of  
27 any bonds;

28 (k) To apply for and to accept gifts or grants of real or personal  
29 property, money, material, labor or supplies for the purposes of the  
30 authority from any governmental unit or person, and to make and  
31 perform agreements and contracts and to do any and all things  
32 necessary or useful and convenient in connection with the procuring,  
33 acceptance or disposition of such gifts or grants;

34 (l) To determine the location, type and character of any public  
35 facility and all other matters in connection with all or any part of any  
36 public facility which it is authorized to own, construct, establish,  
37 effectuate or control;

38 (m) To make and enforce bylaws or rules and regulations for the  
39 management and regulation of its business and affairs and for the use,  
40 maintenance and operation of any public facility, and to amend the  
41 same;

42 (n) To do and perform any acts and things authorized by [this act]  
43 the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.) under,  
44 through or by means of its own officers, agents and employees, or by  
45 contract with any governmental unit or person;

46 (o) To acquire, purchase, construct, lease, operate, maintain and

1 undertake any project and to fix and collect facility charges for the use  
2 thereof;

3 (p) To mortgage, pledge or assign or otherwise encumber all or  
4 any portion of its revenues and other income, real and personal  
5 property, projects and facilities for the purpose of securing its bonds,  
6 notes and other obligations or otherwise in furtherance of the purpose  
7 of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);

8 (q) To extend credit or make loans to redevelopers for the  
9 planning, designing, acquiring, constructing, reconstructing,  
10 improving, equipping and furnishing any redevelopment project or  
11 redevelopment work;

12 (r) To conduct examinations and investigations, hear testimony and  
13 take proof, under oath at public or private hearings of any material  
14 matter, require the attendance of witnesses and the production of  
15 books and papers and issue commissions for the examination of  
16 witnesses who are out of the State, unable to attend, or excused from  
17 attendance;

18 (s) To authorize a committee designated by it consisting of one or  
19 more members, or counsel, or any officer or employee to conduct any  
20 such investigation or examination, in which case such committee,  
21 counsel, officer or employee shall have power to administer oaths,  
22 take affidavits and issue [subpenas] subpoenas or commissions; [and]

23 (t) To establish and implement a system to calculate, charge and  
24 collect environmental investment charges to recover the environmental  
25 investment costs of the authority;

26 (u) To establish and implement a program for the inspection of all  
27 solid waste collection activities or solid waste disposal operations and  
28 a program to enforce the provisions of the system established for the  
29 collection of environmental investment charges; and

30 (v) To enter into any and all agreements or contracts, execute any  
31 and all instruments, and do and perform any and all acts or things  
32 necessary, convenient or desirable for the purposes of the authority or  
33 to carry out any power expressly given in [this act] the provisions of  
34 P.L.1960, c.183 (C.40:37A-44 et seq.) subject to P.L.1971, c.198,  
35 "Local Public Contracts Law" (C.40A:11-1 et seq.).

36 (cf: P.L.1982, c.113, s.8)

37

38 54. Section 13 of P.L.1960, c.183 (C.40:37A-56) is amended to  
39 read as follows:

40 13. (1) Whenever an authority after investigation and study shall  
41 plan to undertake any public facility or facilities (other than a  
42 development project or redevelopment project) for the purposes of the  
43 authority, the authority shall make to the governing body of the county  
44 and if the public facility or facilities (including a development project  
45 or redevelopment project) benefit any beneficiary county, to the  
46 governing body of any such beneficiary county a detailed report

1 dealing with the proposed public facility or facilities. Notwithstanding  
2 any other provision of [this act] P.L.1960, c.183 (C.40:37A-44 et  
3 seq.), the authority shall not construct or acquire such public facility  
4 or facilities (other than a development project or redevelopment  
5 project within the county which created the authority), or make any  
6 lease or other agreement relating to use by any governmental unit or  
7 person of all or any part of any such public facility or facilities for a  
8 term in excess of five years, until there has been filed with the  
9 authority a copy of a resolution adopted by the governing body of the  
10 county and, if applicable, by any beneficiary county, certified by its  
11 clerk, describing such public facility or facilities in terms sufficient for  
12 reasonable identification and consenting to the construction or  
13 acquisition thereof by the authority or the making of such leases or  
14 other agreements.

15 (2) Unless otherwise required by any agreement of the authority  
16 with holders of its bonds, no authority shall sell any part of a  
17 development project or make any lease or other agreement relating to  
18 use by any governmental unit or person of said part for a term in  
19 excess of five years (A) Until the Commissioner of Community Affairs  
20 (hereinafter called the "commissioner") has approved a plan  
21 (hereinafter called, with respect to such part, the "development plan")  
22 prepared by the authority which provides an outline for the  
23 development of said part sufficient, in the opinion of the  
24 commissioner: (i) to indicate its relationship to appropriate land uses  
25 in the area and proper traffic, public transportation, public utility,  
26 recreational and community facilities, and other public improvements,  
27 (ii) to indicate proposed land uses and building requirements and  
28 restrictions in said part, and (iii) to provide reasonable assurance that  
29 said part will not be in danger of becoming a blighted area and will be  
30 developed in a manner reasonably designed in the public interest to  
31 encourage industrial, commercial, residential or other proper uses  
32 thereof or restore or increase employment opportunities for residents  
33 of the State; or (B) Unless such sale, lease or other agreement, in the  
34 opinion of the authority, is necessary or desirable in order to effectuate  
35 and carry out the said development plan.

36 (3) Every authority shall have power, subject to the provisions of  
37 subsection (2) of this section, to sell or otherwise dispose of all or any  
38 part of any development project or to lease the same to any  
39 governmental unit or person or make agreement of any kind with any  
40 governmental unit or person for the use or operation thereof, for such  
41 consideration and for such period or periods of time and upon such  
42 other terms and conditions as it may fix and agree upon. In the  
43 exercise of such power, the authority may make any land or structure  
44 in the development project available for use by private enterprise or  
45 governmental units in accordance with the development plan at its use  
46 value, being the value (whether expressed in terms of rental or capital

1 price) at which the authority determines such land or structure should  
2 be made available in order that it may be developed or used for the  
3 purpose or purposes specified in such plan. In order to assure that  
4 land or other property included in the development project is  
5 developed or used in accordance with the development plan, the  
6 authority, upon the sale, lease or other disposition of such land or  
7 property, shall obligate purchasers, lessees or other users: (A) to use  
8 the land or property for the purpose designated in such plan, (B) to  
9 begin the building or installation of their improvements or other  
10 property (if any), and to complete the same, within such periods of  
11 time as the authority may fix as reasonable, and (C) to comply with  
12 such other conditions as are necessary or desirable to carry out the  
13 purposes stated in this act. Any such obligations imposed on a  
14 purchaser of land shall be covenants and conditions running with the  
15 land where the authority so stipulates.

16 (4) Notwithstanding the foregoing, the provisions of this section  
17 shall not apply to the establishment and implementation of a system to  
18 calculate, charge and collect environmental investment charges as  
19 authorized pursuant to section 14 of P.L.1960, c.183 (C.40:37A-57).  
20 (cf: P.L.1994, c.76, s.5)

21

22 55. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to  
23 read as follows:

24 14. a. Every authority is hereby authorized to charge and collect  
25 tolls, rents, rates, fares, fees or other charges (in this act sometimes  
26 referred to as "facility charges") in connection with, or for the use or  
27 services of, or otherwise relating to, any public facility or other  
28 property owned, leased or controlled by the authority. If the public  
29 facility is a [system of] solid waste [disposal] facility, including, but  
30 not limited to, a resource recovery facility, recycling [plant] center or  
31 transfer station owned, leased or controlled by the authority, the  
32 authority may charge and collect in connection with that [system] solid  
33 waste facility from any governmental unit included within the  
34 jurisdiction of the authority or any governmental unit which contracts  
35 for service with that authority, or from any person utilizing the solid  
36 waste facility, or from any owner or occupant of any real property  
37 situated in a constituent municipality or in a municipality which  
38 contracts for service with that authority. [Such] The facility charges  
39 may be charged to and collected from any governmental unit or person  
40 and [such] the governmental unit or person shall be liable for and shall  
41 pay [such] the facility charges to the authority at the time when and  
42 place where [such] the facility charges are due and payable.

43 Any authority that enters into an interdistrict agreement with  
44 another county or public authority as defined in section 3 of P.L. . . .  
45 c. (C. . . .)(pending in the Legislature as this bill) for the shared  
46 use of solid waste facilities acquired, constructed or operated or to be

1 acquired, constructed or operated by, or on behalf of, the authority is  
2 hereby authorized to calculate, charge and collect differential facility  
3 charges for the out-of-county solid waste accepted for disposal at the  
4 solid waste facilities from the sending county or public authority,  
5 provided that the sending county or public authority has agreed to the  
6 payment of environmental investment charges on a voluntary basis.

7 b. Every authority is hereby authorized to calculate, charge and  
8 collect environmental investment charges to recover the environmental  
9 investment costs of the authority.

10 An authority may enter into an agreement with the governing body  
11 of the county wherein the registered solid waste facility of the  
12 authority is located providing for the assumption by the county of the  
13 responsibility for the collection of environmental investment charges.

14 Environmental investment charges may be imposed and collected by  
15 an authority or county: (1) as the environmental investment cost  
16 component of a consolidated bill comprised of solid waste disposal  
17 charges and environmental investment charges collected from users at  
18 the registered solid waste facility; (2) as an item in the municipal  
19 budget or county budget, or any combination thereof, for the payment  
20 of environmental investment costs; or (3) in any other manner  
21 reasonably established by the authority or county.

22 c. Environmental investment charges may be collected by an  
23 authority or county, without limitation, from:

24 (1) every solid waste generator included within the jurisdiction of  
25 the authority or county, regardless of whether a particular solid waste  
26 generator utilizes the registered solid waste facility for solid waste  
27 disposal, through the implementation of a unit charge based upon: (a)  
28 the average annual amount of solid waste generated by a particular  
29 solid waste generator, as measured in tons, during the previous five  
30 years; (b) the average annual amount of solid waste accepted for  
31 disposal at the registered solid waste facility from a particular solid  
32 waste generator, as measured in tons, during the previous five years;  
33 or (c) any other criteria reasonably established by the authority or  
34 county;

35 (2) every constituent municipality that utilizes or has previously  
36 utilized the registered solid waste facility, through the implementation  
37 of an assessment against constituent municipalities based upon: (a) the  
38 average annual aggregate amount of solid waste generated within the  
39 boundaries of a particular constituent municipality from all sources of  
40 generation, as measured in tons, during the previous five years; (b) the  
41 average annual amount of solid waste accepted for disposal at the  
42 registered solid waste facility from all sources of generation within the  
43 boundaries of a particular constituent municipality, as measured in  
44 tons, during the previous five years; or (c) any other criteria  
45 reasonably established by the authority or county;

46 (3) the county wherein the registered solid waste facility is located,

1 through the implementation of an assessment against the county based  
2 upon: (a) the average annual aggregate amount of solid waste  
3 generated within the boundaries of the county from all sources of  
4 generation, as measured in tons, during the previous five years; (b) the  
5 average annual amount of solid waste accepted for disposal at the  
6 registered solid waste facility from all sources of generation within the  
7 boundaries of the county, as measured in tons, during the previous five  
8 years; or (c) any other criteria reasonably established by the authority  
9 or county;

10 (4) any other county or public authority as defined in section 3 of  
11 P.L. , c. (C. )(pending in the Legislature as this bill) that  
12 has entered into an interdistrict agreement with the authority for the  
13 disposal of out-of-county solid waste, through the implementation of  
14 an assessment against the sending county based upon: (a) the average  
15 annual aggregate amount of out-of-county solid waste generated  
16 within the boundaries of the sending county from all sources of  
17 generation, as measured in tons, during the previous five years; (b) the  
18 average annual amount of out-of-county solid waste accepted for  
19 disposal at the registered solid waste facility from all sources of  
20 generation within the boundaries of the sending county, as measured  
21 in tons, during the previous five years; or (c) any other criteria  
22 reasonably established by the authority or county.

23 d. In the event that the environmental investment charges of an  
24 authority with regard to any parcel of real property owned by any  
25 person, other than the State or an agency or subdivision thereof, shall  
26 not be paid as and when due, the unpaid balance thereof, and all  
27 interest accruing thereon, shall be a lien on the parcel. The lien shall  
28 be superior and paramount to the interest in the parcel of any owner,  
29 lessee, tenant, mortgagee or other person except the lien of municipal  
30 taxes and shall be on a parity with and deemed equal to the lien on the  
31 parcel of the municipality wherein the parcel is situated for taxes  
32 thereon due in the same year and not paid as and when due. Whenever  
33 the environmental investment charges, and any interest accrued  
34 thereon, shall have been fully paid to the authority or county, the lien  
35 shall be promptly withdrawn or canceled by the authority or county.

36 The collector or other officer of every municipality charged by law  
37 with the duty of enforcing municipal liens on real property shall  
38 enforce, in the same manner as with any other municipal lien on real  
39 property in the municipality, all environmental investment charges and  
40 the lien thereof shown in any statement filed with the collector or  
41 officer by an authority or county pursuant to the provisions of this  
42 subsection, and shall pay over to the authority or county the sums or  
43 a pro rata share of the sums realized upon the enforcement or  
44 liquidation of any property acquired by the municipality by virtue of  
45 the enforcement action.

46 In the event that the environmental investment charges of an

1 authority or county shall not be paid as and when due, notwithstanding  
2 any other remedies available to the authority or county, the unpaid  
3 balance thereof, and any interest accrued thereon, together with  
4 attorney's fees and costs, may be recovered by the authority or county  
5 in a civil action, and any lien on real property for the environmental  
6 investment charges, and any interest accrued thereon, may be  
7 foreclosed or otherwise enforced by the authority or county by action  
8 or suit in equity as for the foreclosure of a mortgage on the real  
9 property.

10 All rights and remedies provided in this subsection for the collection  
11 and enforcement of environmental investment charges shall be  
12 cumulative and concurrent.

13 e. Upon the establishment of a system to calculate, charge and  
14 collect environmental investment charges to recover the environmental  
15 investment costs of the authority, but prior to the implementation  
16 thereof, the authority shall hold a public hearing thereon at least  
17 20 days after notice of the proposed implementation has been mailed  
18 to the clerk of each constituent municipality located within the  
19 boundaries of the county wherein the registered solid waste facility is  
20 located, and after publication of the notice of the proposed  
21 implementation and the time and place of the public hearing in at least  
22 two newspapers of general circulation within the county.

23 (cf: P.L.1988, c.140, s.1)

24

25 56. Section 15 of P.L.1960, c.183 (C.40:37A-58) is amended to  
26 read as follows:

27 15. a. The facility charges fixed, charged and collected by an  
28 authority with respect to any public facility shall comply with the terms  
29 of any lease or other agreement of the authority with regard to [such]  
30 the public facility, and the facility charges fixed, charged and collected  
31 by an authority may be so adjusted that the revenues of the authority  
32 will at all times be adequate to pay all expenses of the authority,  
33 including the expenses of operation and maintenance of any public  
34 facility or other property owned or controlled by the authority,  
35 including insurance, improvements, replacements, reconstruction and  
36 any other required payments, and to pay the principal of and interest  
37 on any bonds, and to maintain such reserves or sinking funds for any  
38 of the foregoing purposes as may be required by the terms of any  
39 lease or other agreement of the authority or as may be deemed  
40 necessary or convenient and desirable by the authority.

41 b. Notwithstanding the foregoing, the provisions of this section  
42 shall not apply to the environmental investment charges authorized  
43 pursuant to section 14 of P.L.1960, c.183 (C.40:37A-57).

44 (cf: P.L.1960, c.183, s.15)

45

46 57. Section 3 of P.L.1973, c.330 (C.40:37A-100) is amended to

1 read as follows:

2 3. a. Any solid waste [disposal system] facilities owned or  
3 operated by a county improvement authority shall be subject to the  
4 provisions of the "Solid Waste Management Act [(1970)]" (P.L.1970,  
5 c.39, C.13:1E-1 et seq.), and to any rules and regulations adopted  
6 [thereunder] pursuant thereto by the State Department of  
7 Environmental Protection.

8 b. Any county improvement authority is authorized to establish and  
9 implement a program for the inspection of all solid waste collection  
10 activities or solid waste disposal operations and a program to enforce  
11 the provisions of the system established pursuant to section 14 of  
12 P.L.1960, c.183 (C.40:37A-57) for the collection of environmental  
13 investment charges, or the provisions of any interdistrict agreements,  
14 contracts or instruments executed in connection with the  
15 implementation of a district solid waste management plan or use of any  
16 registered solid waste facility.

17 c. Any county improvement authority is authorized to exercise the  
18 enforcement powers conferred on local boards of health or county  
19 health departments pursuant to the provisions of the "County  
20 Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.)  
21 and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise these  
22 powers directly in the manner provided by the aforementioned acts to  
23 local boards of health or county health departments, for the purposes  
24 of enforcing the provisions of the system established pursuant to  
25 section 14 of P.L.1960, c.183 (C.40:37A-57) for the collection of  
26 environmental investment charges.

27 (cf: P.L.1973, c.330, s.3)

28

29 58. Section 3 of P.L.1973, c.376 (C.40:37C-3) is amended to read  
30 as follows:

31 3. [In] As used in this act[, unless the context otherwise clearly  
32 requires, the terms used herein shall have the meanings ascribed to  
33 them as follows]:

34 "Act" means [this] the "New Jersey Pollution Control Financing  
35 Law," P.L.1973, c.376 (C.40:37C-1 et seq.).

36 "Authority" means a pollution control financing authority created  
37 pursuant to [this act] the provisions of P.L.1973, c.376 (C.40:37C-1  
38 et seq.).

39 "Bonds" means any notes, bonds and other evidences of  
40 indebtedness or obligations of any agency.

41 "Constituent municipality" means any municipality located within  
42 the territorial boundaries of a county that has created an authority, or  
43 any municipality included within the jurisdiction of an authority  
44 pursuant to the provisions of P.L.1973, c.376 (C.40:37C-1 et seq.), or  
45 any combination thereof.

46 "County" means any county of any class.

1 "Governing body" means the board of chosen freeholders.

2 "Environmental investments" means any: (1) solid waste facilities;  
3 (2) solid waste management programs; (3) obligation to fulfill  
4 interdistrict agreements; (4) obligation to pay solid waste taxes; or (5)  
5 obligation to pay host municipality benefits.

6 "Environmental investment charges" means the rates, fees or other  
7 charges imposed and collected by an authority for the payment of  
8 environmental investment costs.

9 "Environmental investment costs" means the cost of environmental  
10 investments.

11 "Host municipality benefits" means the payment of annual economic  
12 benefits made to host municipalities required pursuant to section 19 of  
13 P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987, c.449 (C.13:1E-  
14 28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of P.L.1985, c.38  
15 (C.48:13A-5.1).

16 "Interdistrict agreement" means a contract or agreement negotiated  
17 between the concerned boards of chosen freeholders, the Hackensack  
18 Commission, an authority, or any combination thereof, for the shared  
19 use of registered solid waste facilities.

20 "Person" means any individual, partnership, firm, company,  
21 corporation, public utility, association, trust, estate, or any other legal  
22 entity, or their legal representative, agent or assigns.

23 "Pollution" means any form of environmental pollution deriving  
24 from the operation of public utility, industrial, manufacturing,  
25 warehousing, commercial, office or research facilities, or deriving from  
26 the disposal of solid waste generated at residences, hotels, apartments  
27 or any other public or private buildings, including, but not limited to,  
28 water pollution, air pollution, pollution caused by solid waste disposal,  
29 thermal pollution, radiation contamination, or noise pollution as  
30 determined by the various standards prescribed by this State or the  
31 Federal Government and including, but not limited to, anything which  
32 is considered as pollution or environmental damage pursuant to the  
33 laws, rules and regulations administered by the Department of  
34 Environmental Protection as established by P.L.1970, c.33 (C.13:1D-1  
35 et seq.), and any amendments and supplements thereto.

36 "Pollution control facilities" means any structures, facilities,  
37 systems, fixtures, lands and rights in lands, improvements,  
38 appurtenances, machinery, equipment or any combination thereof  
39 designed and utilized for the purpose of resource recovery and in  
40 connection with solid waste disposal, or for the purpose of reducing,  
41 abating or preventing pollution, deriving from the operation of public  
42 utility, industrial, manufacturing, warehousing, commercial, office or  
43 research facilities; and provided that the State Department of  
44 Environmental Protection and the governing body of the county certify  
45 that any such facility does not conflict with, overlap or duplicate any  
46 other planned or existing pollution control facilities undertaken or

1 planned by another public agency or authority.

2 "Project costs" as applied to pollution control facilities financed  
3 under the provisions of this act means the sum total of all reasonable  
4 or necessary costs incident to the acquisition, construction,  
5 reconstruction, repair, alteration, improvement and extension of such  
6 pollution control facilities including, but not limited to, the cost of  
7 studies and surveys; plans, specifications, architectural and engineering  
8 services; organization, marketing or other special services; legal  
9 financing, acquisition, demolition, construction, equipment and site  
10 development of new and rehabilitated buildings; rehabilitation,  
11 reconstruction, repair or remodeling of existing buildings, fixtures,  
12 machinery and equipment; insurance premiums; and all other necessary  
13 and incidental expenses including an initial bond and interest reserve  
14 together with interest on bonds issued to finance such pollution  
15 control facilities to a date 6 months subsequent to the estimated date  
16 of completion and such other reserves as may be required by  
17 resolution of an agency; except that, in connection with solid waste  
18 facilities, "cost" means, in addition to the aforementioned connotations  
19 thereof, any expenses related to: (1) the planning, acquisition,  
20 construction, operation and maintenance of solid waste facilities,  
21 including debt service on bonds issued to finance solid waste facilities;  
22 (2) the fulfillment of interdistrict agreements; (3) the establishment and  
23 implementation of solid waste management programs; (4) the payment  
24 of solid waste taxes; or (5) the payment of host municipality benefits.

25 "Registered solid waste facility" means a solid waste facility for  
26 which the owner or operator thereof has received registration  
27 statement and engineering design approval from the Department of  
28 Environmental Protection pursuant to section 5 of 1970, c.39  
29 (C.13:1E-5).

30 "Resource recovery" means the collection, separation, recycling  
31 and recovery of metals, glass, paper and other materials for reuse; or  
32 the incineration of solid waste for energy production and the recovery  
33 of metals and other materials for reuse.

34 "Solid waste" means garbage, refuse and other discarded materials  
35 resulting from industrial, commercial and agricultural operations, and  
36 from domestic and community activities, and shall include all other  
37 waste materials including liquids, except for solid animal and vegetable  
38 wastes collected by swine producers licensed by the State Department  
39 of Agriculture to collect, prepare and feed such wastes to swine on  
40 their own farms.

41 "Solid waste facilities" means, and includes, the plants, structures  
42 and other real and personal property acquired, constructed or operated  
43 or to be acquired, constructed or operated by an authority for, or with  
44 respect to, the implementation of a district solid waste management  
45 plan required pursuant to the provisions of the "Solid Waste  
46 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or for the

1 benefit or use by any governmental unit or person, including transfer  
2 stations, incinerators, resource recovery facilities, sanitary landfill  
3 facilities or other plants for the disposal of solid waste and all other  
4 real and personal property and rights therein and appurtenances  
5 necessary or useful and convenient for the collection, recycling or  
6 disposal of solid waste in a sanitary manner.

7 "Solid waste management program" means any program established  
8 by, or on behalf of, an authority for sanitary landfill facility closure,  
9 enforcement, household hazardous waste management, recycling or  
10 other purposes related to the implementation of a district solid waste  
11 management plan required pursuant to the provisions of the "Solid  
12 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or a  
13 district recycling plan required pursuant to section 3 of P.L.1987,  
14 c.102 (C.13:1E-99.13).

15 "Solid waste taxes" means the taxes imposed pursuant to section 4  
16 of P.L.1981, c.278 (C.13:1E-95), section 5 of P.L.1981, c.306  
17 (C.13:1E-104) or section 3 of P.L.1985, c.38 (C.13:1E-138).  
18 (cf: P.L.1983, c.298, s. 4)

19  
20 59. Section 4 of P.L.1973, c.376 (C.40:37C-4) is amended to read  
21 as follows:

22 4. a. (1) Any county may create an authority under the provisions  
23 of this act which shall be a public body corporate and politic and a  
24 political subdivision of the State for the purpose of acquiring,  
25 constructing, reconstructing, repairing, altering, improving, extending,  
26 owning, leasing, financing, selling, maintaining, operating and  
27 disposing of pollution control facilities within such county; provided  
28 that, with respect to any pollution control facility which is not engaged  
29 in resource recovery, the Department of Environmental Protection  
30 certifies that the proposed undertaking of the authority is the proper  
31 method of solving the problem under consideration; and provided  
32 further that, with respect to any pollution control facility which is  
33 engaged in resource recovery, the solid waste facilities, including the  
34 resource recovery facility, conforms to the Statewide solid waste  
35 management plan and the applicable district solid waste management  
36 plan and has an approved registration statement and engineering  
37 design pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5).

38 (2) The purposes of every authority shall include the acquisition,  
39 construction, maintenance and operation of solid waste facilities for  
40 the purpose of collecting, disposing or recycling of solid waste,  
41 whether owned or operated by any person, the authority or any other  
42 governmental unit, within or without the county, including the  
43 establishment and implementation of a system to calculate, charge and  
44 collect environmental investment charges to recover environmental  
45 investment costs.

46 b. The authority shall be created by resolution and shall be known

1 as the " Pollution Control Financing Authority of \_\_\_\_\_," inserting all  
2 or any significant part of the name of the county creating the authority.  
3 The authority shall constitute an agency and instrumentality of the  
4 county creating it.

5 c. An authority shall consist of five members appointed by  
6 resolution of the governing body of the county which created such  
7 authority.

8 Members shall serve for terms of 5 years, provided that the  
9 members first appointed shall be designated by the resolution of  
10 appointment to serve for terms expiring on the first days of the first,  
11 second, third, fourth and fifth Februarys next ensuing after such  
12 appointment. Each member shall hold office for the term of his  
13 appointment and until his successor shall have been appointed and  
14 qualified. Any vacancy shall be filled in the same manner as the  
15 original appointment but for the unexpired term only.

16 d. The governing body of any county which has created an  
17 authority may dissolve the authority by resolution on condition that the  
18 authority has no debts or obligations outstanding or that provision has  
19 been made for the retirement of such debts or obligations. Upon any  
20 such dissolution, all property, funds and assets of the authority shall  
21 be vested in the county which created the authority.

22 e. A certified copy of each resolution creating or dissolving an  
23 authority and each resolution appointing members thereto shall be filed  
24 in the office of the Secretary of State. A copy of any such certified  
25 resolution, certified by or on behalf of the Secretary of State, shall be  
26 conclusive evidence of the due and proper creation or dissolution of  
27 the authority or the due and proper appointment of the member or  
28 members named therein.

29 f. The powers of an authority shall be vested in the members  
30 thereof from time to time and three members shall constitute a  
31 quorum. Action may be taken and motions and resolutions adopted by  
32 an agency at any meeting thereof by the affirmative vote of at least  
33 three members of the authority.

34 No vacancy in the membership of an authority shall impair the right  
35 of a quorum of the members thereof to exercise all the powers and  
36 perform all the duties of the authority.

37 g. At the first meeting of any authority and thereafter on or after  
38 February 1 in each year, the members shall elect from among their  
39 number a chairman and vice chairman who shall hold office until  
40 February 1 next ensuing and until their respective successors have  
41 been appointed and qualified. Every authority also may appoint,  
42 without regard to the provisions of Title [11 of the Revised] 11A of  
43 the New Jersey Statutes, a secretary, treasurer and such other officers,  
44 agents and employees as it may require.

45 h. The members of an authority shall serve without compensation,  
46 but the authority shall reimburse its members for actual expenses

1 necessarily incurred in the discharge of their official duties.

2 i. No member, officer or employee of an authority, nor member of  
3 their family, shall have or acquire any interest, direct or indirect in any  
4 pollution control facilities undertaken or planned by the authority or  
5 in any contract or proposed contract for materials or services to be  
6 furnished to or used by the authority, but neither the holding of any  
7 office or employment in the government of any county or municipality  
8 or under any law of the State shall be deemed a disqualification for  
9 membership in or employment by an authority, except as may be  
10 specifically provided by law, and members of the governing body of  
11 a county may be appointed by such governing body and may serve as  
12 members of the authority. A member may be removed only by the  
13 governing body by which he was appointed for inefficiency or neglect  
14 of duty or misconduct in office or conviction of a crime, and after he  
15 shall have been given a copy of the charges against him and, not  
16 sooner than 10 days thereafter, had the opportunity in person or by  
17 counsel to be heard thereon by such governing body.

18 (cf: P.L1983, c.298, s.5)

19

20 60. Section 5 of P.L.1973, c.376 (C.40:37C-5) is amended to read  
21 as follows:

22 5. The authority shall have the following powers together with all  
23 powers incidental thereto or necessary for the performance thereof:

24 a. To have perpetual succession as a public body corporate and  
25 politic;

26 b. to adopt bylaws for the regulation of its affairs and the conduct  
27 of its business;

28 c. to sue and to be sued;

29 d. to have and to use a corporate seal and to alter the same at  
30 pleasure;

31 e. to maintain an office at such place or places within the county  
32 as it may designate;

33 f. to acquire after a public notice has been given at least 20 days  
34 prior thereto in a newspaper of general circulation in the area served  
35 by the authority, in the name of the authority by purchase or  
36 otherwise, on such terms and conditions and in such manner as it may  
37 deem proper any land and other property which it may determine is  
38 reasonably necessary for any of its pollution control facilities;

39 g. to determine, with the approval of the State Department of  
40 Environmental Protection, the location and manner of construction of  
41 pollution control facilities to be financed under the provisions of this  
42 act, and to acquire, construct, reconstruct, repair, alter, improve,  
43 extend, own, lease, finance, sell, maintain and dispose of the same and  
44 to enter into contracts for any and all of such purposes, and to  
45 designate persons as its employees and agents to accomplish the same;

46 h. to lease to a person or persons any or all of the pollution control

1 facilities upon such terms, conditions and guarantees as the authority  
2 shall deem proper, and to charge and collect rent and fees therefor and  
3 to terminate any such lease upon the failure of the lessee to comply  
4 with any of the obligations thereof; and to include in any such lease,  
5 if desired, provisions that the lessee or lessees thereof, and any  
6 guarantor of such lease, shall have upon the termination of the lease  
7 term options to renew the term of the lease for such period or periods  
8 and at such rent as shall be determined by the authority or to purchase  
9 any or all of the pollution control facilities for a nominal amount or  
10 otherwise or that upon payment of all of the indebtedness incurred by  
11 the authority for the financing of such pollution control facilities of the  
12 authority may convey any or all of the pollution control facilities to  
13 the lessee or lessees thereof;

14 i. to sell to a person or persons any or all of the pollution control  
15 facilities upon such terms and conditions as the authority shall deem  
16 proper including the right to receive for such sale the note or notes of  
17 the person or persons purchasing the facility;

18 j. to acquire, hold, pledge, mortgage and dispose of real and  
19 personal property in the exercise of its powers and performance of its  
20 duties under this act;

21 k. to invest and reinvest bond proceeds pending application to the  
22 purposes for which such bonds were issued and other funds under its  
23 control, subject only to the provisions of any bond resolution, lease  
24 or other agreement entered into by such authority;

25 l. to issue bonds in such principal amounts as, in the opinion of  
26 such authority, shall be necessary to provide sufficient funds to carry  
27 out the purpose of this act, including the planning, financing,  
28 acquisition, construction and other project costs of pollution control  
29 facilities, the payment of interest on the bonds of the authority, the  
30 provision for working capital and all other expenditures of the agency  
31 incident to and necessary or convenient for carrying out its purposes  
32 and powers and to refund the same, all as provided for in this act;

33 m. to employ engineers, architects, attorneys, accountants,  
34 construction and financial experts, superintendents, managers and such  
35 other employees and agents, without regard to the provisions of Title  
36 [11 of the Revised] 11A of the New Jersey Statutes, as may be  
37 necessary in its judgment and to fix their compensation;

38 n. to receive and accept from any public agency loans or grants for  
39 or in aid of the construction of pollution control facilities and any  
40 portion thereof, or for equipping the same, and to receive and accept  
41 grants, gifts or other contributions from any source;

42 o. to refund, after public notice has been given, outstanding  
43 obligations incurred by any agency or any person to finance the cost  
44 of pollution control facilities, including obligations incurred for  
45 pollution control facilities undertaken and completed after the  
46 enactment of this act when the authority finds that such financing is in

1 the public interest;

2 p. to extend credit or make loans to any person in order to pay or  
3 provide for the payment of any project costs of a pollution control  
4 facility; [and]

5 q. to do all things necessary and convenient to carry out the  
6 purposes of this act

7 r. to establish and implement a system to calculate, charge and  
8 collect environmental investment charges to recover the environmental  
9 investment costs of the authority; and

10 s. to establish and implement a program for the inspection of all  
11 solid waste collection activities or solid waste disposal operations and  
12 a program to enforce the provisions of the system established for the  
13 collection of environmental investment charges.

14 (cf: P.L.1983, c.298, s.6)

15

16 61. (New section) a. (1) Every authority created pursuant to the  
17 provisions of P.L.1973, c.376 (C.40:37C-1 et seq.) is hereby  
18 authorized to charge and collect rates, fees or other charges  
19 (hereinafter referred to as "solid waste charges") in connection with,  
20 or for the use or services of, or otherwise relating to, any solid waste  
21 facilities owned, sold, leased or controlled by the authority, including,  
22 but not limited to, any recycling center, resource recovery facility,  
23 transfer station or sanitary landfill facility. An authority may charge  
24 and collect solid waste charges from any governmental unit included  
25 within the jurisdiction of the authority, or any governmental unit which  
26 contracts for service with the authority, or from any person utilizing  
27 the solid waste facilities of the authority, or from any owner or  
28 occupant of any real property situated in a municipality or county  
29 which contracts for service with the authority. The solid waste charges  
30 may be charged to and collected from any governmental unit or person  
31 and the governmental unit or person shall be liable for and shall pay  
32 the solid waste charges to the authority at the time when and place  
33 where the solid waste charges are due and payable.

34 (2) Every authority created pursuant to the provisions of P.L.1973,  
35 c.376 (C.40:37C-1 et seq.) that enters into an interdistrict agreement  
36 with another county or public authority as defined in section 3 of  
37 P.L. , c. (C. )(pending in the Legislature as this bill) for the  
38 shared use of solid waste facilities acquired, constructed or operated  
39 or to be acquired, constructed or operated by, or on behalf of, the  
40 authority is hereby authorized to calculate, charge and collect  
41 differential solid waste charges for the out-of-county solid waste  
42 accepted for disposal at the solid waste facilities from the sending  
43 county or public authority, provided that the sending county or public  
44 authority has agreed to the payment of environmental investment  
45 charges on a voluntary basis.

46 b. Every authority created pursuant to the provisions of P.L.1973,

1 c.376 (C.40:37C-1 et seq.) is hereby authorized to calculate, charge  
2 and collect environmental investment charges to recover the  
3 environmental investment costs of the authority.

4 An authority may enter into an agreement with the governing body  
5 of the county wherein the registered solid waste facility of the  
6 authority is located providing for the assumption by the county of the  
7 responsibility for the collection of environmental investment charges.

8 Environmental investment charges may be imposed and collected by  
9 an authority or county: (1) as the environmental investment cost  
10 component of a consolidated bill comprised of solid waste disposal  
11 charges and environmental investment charges collected from users at  
12 the registered solid waste facility; (2) as an item in the municipal  
13 budget or county budget, or any combination thereof, for the payment  
14 of environmental investment costs; or (3) in any other manner  
15 reasonably established by the authority or county.

16 c. Environmental investment charges may be collected by an  
17 authority or county, without limitation, from:

18 (1) every solid waste generator included within the jurisdiction of  
19 the authority or county, regardless of whether a particular solid waste  
20 generator utilizes the registered solid waste facility for solid waste  
21 disposal, through the implementation of a unit charge based upon: (a)  
22 the average annual amount of solid waste generated by a particular  
23 solid waste generator, as measured in tons, during the previous five  
24 years; (b) the average annual amount of solid waste accepted for  
25 disposal at the registered solid waste facility from a particular solid  
26 waste generator, as measured in tons, during the previous five years;  
27 or (c) any other criteria reasonably established by the authority or  
28 county;

29 (2) every constituent municipality that utilizes or has previously  
30 utilized the registered solid waste facility, through the implementation  
31 of an assessment against constituent municipalities based upon: (a) the  
32 average annual aggregate amount of solid waste generated within the  
33 boundaries of a particular constituent municipality from all sources of  
34 generation, as measured in tons, during the previous five years; (b) the  
35 average annual amount of solid waste accepted for disposal at the  
36 registered solid waste facility from all sources of generation within the  
37 boundaries of a particular constituent municipality, as measured in  
38 tons, during the previous five years; or (c) any other criteria  
39 reasonably established by the authority or county;

40 (3) the county wherein the registered solid waste facility is located,  
41 through the implementation of an assessment against the county based  
42 upon: (a) the average annual aggregate amount of solid waste  
43 generated within the boundaries of the county from all sources of  
44 generation, as measured in tons, during the previous five years; (b) the  
45 average annual amount of solid waste accepted for disposal at the  
46 registered solid waste facility from all sources of generation within the

1 boundaries of the county, as measured in tons, during the previous five  
2 years; or (c) any other criteria reasonably established by the authority  
3 or county;

4 (4) any other county or public authority as defined in section 3 of  
5 P.L. , c. (C. )(pending in the Legislature as this bill) that  
6 has entered into an interdistrict agreement with the authority for the  
7 disposal of out-of-county solid waste, through the implementation of  
8 an assessment against the sending county based upon: (a) the average  
9 annual aggregate amount of out-of-county solid waste generated  
10 within the boundaries of the sending county from all sources of  
11 generation, as measured in tons, during the previous five years; (b) the  
12 average annual amount of out-of-county solid waste accepted for  
13 disposal at the registered solid waste facility from all sources of  
14 generation within the boundaries of the sending county, as measured  
15 in tons, during the previous five years; or (c) any other criteria  
16 reasonably established by the authority or county.

17 d. In the event that the environmental investment charges of an  
18 authority with regard to any parcel of real property owned by any  
19 person, other than the State or an agency or subdivision thereof, shall  
20 not be paid as and when due, the unpaid balance thereof, and all  
21 interest accruing thereon, shall be a lien on the parcel. The lien shall  
22 be superior and paramount to the interest in the parcel of any owner,  
23 lessee, tenant, mortgagee or other person except the lien of municipal  
24 taxes and shall be on a parity with and deemed equal to the lien on the  
25 parcel of the municipality wherein the parcel is situated for taxes  
26 thereon due in the same year and not paid as and when due. Whenever  
27 the environmental investment charges, and any interest accrued  
28 thereon, shall have been fully paid to the authority or county, the lien  
29 shall be promptly withdrawn or canceled by the authority or county.

30 The collector or other officer of every municipality charged by law  
31 with the duty of enforcing municipal liens on real property shall  
32 enforce, in the same manner as with any other municipal lien on real  
33 property in the municipality, all environmental investment charges and  
34 the lien thereof shown in any statement filed with the collector or  
35 officer by an authority or county pursuant to the provisions of this  
36 subsection, and shall pay over to the authority or county the sums or  
37 a pro rata share of the sums realized upon the enforcement or  
38 liquidation of any property acquired by the municipality by virtue of  
39 the enforcement action.

40 In the event that the environmental investment charges of an  
41 authority or county shall not be paid as and when due, notwithstanding  
42 any other remedies available to the authority or county, the unpaid  
43 balance thereof, and any interest accrued thereon, together with  
44 attorney's fees and costs, may be recovered by the authority or county  
45 in a civil action, and any lien on real property for the environmental  
46 investment charges, and any interest accrued thereon, may be

1 foreclosed or otherwise enforced by the authority or county by action  
2 or suit in equity as for the foreclosure of a mortgage on the real  
3 property.

4 All rights and remedies provided in this subsection for the collection  
5 and enforcement of environmental investment charges shall be  
6 cumulative and concurrent.

7 e. Upon the establishment of a system to calculate, charge and  
8 collect environmental investment charges to recover the environmental  
9 investment costs of the authority, but prior to the implementation  
10 thereof, the authority shall hold a public hearing thereon at least  
11 20 days after notice of the proposed implementation has been mailed  
12 to the clerk of each constituent municipality located within the  
13 boundaries of the county wherein the registered solid waste facility is  
14 located, and after publication of the notice of the proposed  
15 implementation and the time and place of the public hearing in at least  
16 two newspapers of general circulation within the county.

17

18 62. (New section) a. Every solid waste facility owned or operated  
19 by, or on behalf of, an authority created pursuant to the provisions of  
20 P.L.1973, c.376 (C.40:37C-1 et seq.) shall be subject to the provisions  
21 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
22 seq.), and to any rules and regulations adopted pursuant thereto by the  
23 Department of Environmental Protection.

24 b. Any authority created pursuant to the provisions of P.L.1973,  
25 c.376 (C.40:37C-1 et seq.) may establish and implement a program for  
26 the inspection of all solid waste collection activities or solid waste  
27 disposal operations and a program to enforce the provisions of the  
28 system established pursuant to section 61 of P.L. , c.  
29 (C. )(pending in the Legislature as this bill) for the collection of  
30 environmental investment charges, or the provisions of any interdistrict  
31 agreements, contracts or instruments executed in connection with the  
32 implementation of a district solid waste management plan or use of any  
33 registered solid waste facility.

34 c. Any authority created pursuant to the provisions of P.L.1973,  
35 c.376 (C.40:37C-1 et seq.) is authorized to exercise the enforcement  
36 powers conferred on local boards of health or county health  
37 departments pursuant to the provisions of the "County Environmental  
38 Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) and section 9 of  
39 P.L.1970, c.39 (C.13:1E-9), and may exercise these powers directly  
40 in the manner provided by the aforementioned acts to local boards of  
41 health or county health departments, for the purposes of enforcing the  
42 provisions of the system established pursuant to section 61 of  
43 P.L. , c. (C. )(pending in the Legislature as this bill) for the  
44 collection of environmental investment charges.

45

46 63. R.S.40:66-1 is amended to read as follows:

1 40:66-1. [a.] The governing body may provide for the cleaning of  
2 the streets of the municipality, and establish and operate a system  
3 therefor; purchase and operate any equipment necessary for the  
4 cleaning of the streets; and make, amend, repeal and enforce any  
5 ordinances, resolutions, rules or regulations as may be deemed  
6 necessary and proper for the establishment, operation and management  
7 of a street cleaning system, and the employees connected therewith.

8 a. The governing body may provide for the collection or disposal  
9 of all residential, commercial or institutional solid waste generated  
10 within the boundaries of the municipality, and may establish and  
11 operate a municipal service system therefor[;].

12 Any municipal service system established pursuant to this  
13 subsection shall:

14 (1) In the case of single-family residential housing or multi-family  
15 residential housing, include the provision of regular solid waste  
16 collection service; or

17 (2) In the case of any commercial or institutional building or  
18 structure located within the boundaries of the municipality, permit the  
19 responsible solid waste generator to contract with a solid waste  
20 collector for regular solid waste collection service on an individual  
21 basis.

22 The governing body may purchase and operate [the necessary] any  
23 equipment necessary for the [cleaning of streets, and for the]  
24 collection or disposal of solid waste from the municipal solid waste  
25 stream; and make, amend, repeal and enforce [all such] any  
26 ordinances, resolutions, rules [and] or regulations as may be deemed  
27 necessary and proper for the [introduction] establishment, operation  
28 and management of [such] a municipal service system, [and for the  
29 maintenance and operation of a solid waste facility,] and the  
30 employees connected therewith, subject to the provisions of the  
31 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)  
32 [and the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40  
33 (C.48:13A-1 et al.), for the disposal of solid waste, and for the  
34 government of employees connected therewith].

35 b. A municipal governing body that establishes a municipal service  
36 system for the collection or disposal of solid waste pursuant to  
37 subsection a. of this section and section 5 of P.L. , c. (C. )  
38 (pending in the Legislature as this bill), in its discretion, may limit the  
39 municipal service furnished by it to curbside collection along public  
40 streets or roads that have been dedicated to and accepted by the  
41 municipality. The municipal governing body may also refuse to enter  
42 upon private property to remove solid waste from dumpsters or other  
43 solid waste containers. The municipal governing body, in its sole  
44 discretion, may choose to reimburse those property owners who do  
45 not receive the municipal service, but such reimbursement shall not  
46 exceed the cost that would be incurred by the municipality in providing

1 the solid waste collection or disposal service directly. Nothing  
2 contained in this subsection shall be deemed to modify the provisions  
3 of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified  
4 private communities.

5 (cf: P.L.1993, c.6, s.3)

6  
7 64. Section 6 of P.L.1989, c.244 (C.40:66-1.1) is amended to read  
8 as follows:

9 6. As used in this chapter:

10 "Municipal solid waste stream" means all residential, commercial  
11 and institutional solid waste generated within the boundaries of any  
12 municipality.

13 ["Proof of collection service" means a written record, log, bill or  
14 document evidencing receipt of service for the collection of solid  
15 waste for the preceding month from a person lawfully engaging in  
16 private solid waste collection services within a municipality.]

17 "Public authority" means a municipal or county utilities authority  
18 created pursuant to the "municipal and county utilities authorities  
19 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement  
20 authority created pursuant to the "county improvement authorities  
21 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control  
22 financing authority created pursuant to the "New Jersey Pollution  
23 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any  
24 other public body corporate and politic created for solid waste  
25 management purposes in any county, pursuant to the provisions of any  
26 law.

27 "Registered solid waste facility" means a solid waste facility for  
28 which the owner or operator thereof has received registration  
29 statement and engineering design approval from the Department of  
30 Environmental Protection pursuant to section 5 of 1970, c.39  
31 (C.13:1E-5).

32 "Regular solid waste collection service" means the scheduled  
33 pick-up and removal of solid waste from residential, commercial or  
34 institutional premises located within the boundaries of any municipality  
35 at least once a week.

36 "Responsible solid waste generator" means any property owner,  
37 tenant or occupant of any single-family residential dwelling or multiple  
38 dwelling, or the owner of any commercial or institutional building or  
39 structure located within the boundaries of any municipality, who  
40 generates solid waste at those premises.

41 "Solid waste" means garbage, refuse, and other discarded materials  
42 resulting from industrial, commercial and agricultural operations, and  
43 from domestic and community activities, and shall include all other  
44 waste materials including liquids, except for solid animal and vegetable  
45 wastes collected by swine producers licensed by the State Department  
46 of Agriculture to collect, prepare and feed such wastes to swine on

1 their own farms.

2 "Solid waste collection" means the activity related to pick-up and  
3 transportation of solid waste from its source or location to a solid  
4 waste facility or other destination.

5 "Solid waste collector" means a person engaged in the collection of  
6 solid waste and registered pursuant to sections 4 and 5 of P.L.1970,  
7 c.39 (C.13:1E-4 and 13:1E-5)

8 "Solid waste container" means a receptacle, container or bag  
9 suitable for the depositing of solid waste.

10 "Solid waste disposal" means the storage, treatment, utilization,  
11 processing, or final disposal of solid waste.

12 "Solid waste facilities" [~~mean~~] means, and [include] includes, the  
13 plants, structures and other real and personal property acquired,  
14 constructed or operated or to be acquired, constructed or operated by  
15 [~~any person pursuant to the provisions of this], or on behalf of, a~~  
16 public authority or county for, or with respect to, the implementation  
17 of a district solid waste management plan pursuant to the provisions  
18 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
19 seq.) or any other act, including transfer stations, incinerators,  
20 resource recovery facilities, sanitary landfill facilities or other plants  
21 for the disposal of solid waste, and all vehicles, equipment and other  
22 real and personal property and rights therein and appurtenances  
23 necessary or useful and convenient for the collection or disposal of  
24 solid waste in a sanitary manner.

25 (cf: P.L.1991, c.170, s.4)

26

27 65. R.S.40:66-4 is amended to read as follows:

28 40:66-4. a. The governing body may, if it deem it more  
29 advantageous, contract with any person for the cleaning of the streets,  
30 or with a solid waste collector, public authority, county or other  
31 person for the collection or disposal of solid waste from the municipal  
32 solid waste stream. Before making any such contract or contracts the  
33 governing body shall first adopt specifications for the doing of the  
34 work in a sanitary and inoffensive manner. Any specifications adopted  
35 by the governing body for the collection or disposal of solid waste  
36 shall conform to the uniform bid specifications for municipal solid  
37 waste collection contracts established pursuant to section 22 of  
38 P.L.1991, c.381 (C.48:13A-7.22).

39 Any such contract or contracts, the total amount of which exceeds  
40 in the fiscal year the amount set forth in, or the amount calculated by  
41 the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3),  
42 shall be entered into and made only after bids shall have been  
43 advertised therefor, and awarded in the manner provided in the "Local  
44 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

45 b. Whenever the governing body adopts an ordinance to provide  
46 for the collection or disposal of solid waste within its municipal

1 boundaries by imposing solid waste charges based on the number of  
2 solid waste containers processed per household pursuant to subsection  
3 b. of R.S.40:66-5, on or after the first day of the 13th month following  
4 the effective date of that ordinance, the governing body may request  
5 the relevant solid waste collector to whom a multi-year contract has  
6 been awarded to renegotiate the contract to reflect any reduction in  
7 the annual volume of solid waste collected achieved as a result of the  
8 ordinance.

9 c. Whenever the governing body has negotiated a solid waste  
10 services agreement with a public authority or county for the use of a  
11 registered solid waste facility pursuant to section 8 of P.L. , c.   
12 (C. )(pending in the Legislature as this bill), and has awarded  
13 a contract for regular solid waste collection service to a solid waste  
14 collector pursuant to the provisions of the "Local Public Contracts  
15 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the governing body shall,  
16 as a condition of the municipal solid waste collection contract, require  
17 the solid waste collector to utilize the registered solid waste facility  
18 that has been designated by the municipality for the disposal of solid  
19 waste from its municipal solid waste stream pursuant to the terms and  
20 conditions of the solid waste services agreement.

21 (cf: P.L.1991, c.381, s.47)

22  
23 66. R.S.40:66-5 is amended to read as follows:

24 40:66-5. a. The governing body may provide for the collection or  
25 disposal of solid waste from the municipal solid waste stream at the  
26 general expense, or if deemed by it more advisable, impose rates, fees  
27 or charges (hereinafter referred to as "solid waste charges") to be  
28 charged by the municipality for the collection or disposal of solid  
29 waste, provide for the manner of payment of the same, and maintain  
30 an action at law to recover any moneys due therefor.

31 b. [Where] Whenever the governing body determines to provide  
32 for the collection or disposal of solid waste by imposing solid waste  
33 charges on a per container basis, the governing body shall adopt an  
34 ordinance to:

35 (1) Establish a rate schedule of solid waste charges based on the  
36 number of solid waste containers processed per household; and

37 (2) Provide residents with the opportunity to purchase, on a  
38 prepaid basis, one or more solid waste containers, or a voucher or  
39 sticker therefor, to facilitate the payment of solid waste charges on a  
40 per container basis.

41 (cf: P.L.1989, c.244, s.5.)

42  
43 67. N.J.S.40A:4-22. is amended to read as follows:

44 40A:4-22. a. Every budget shall be prefaced by an explanatory  
45 statement of its contents and shall be itemized according to the  
46 respective objects and purposes for which appropriations are made.

1 Itemization shall be in the form, classification and detail prescribed by  
2 regulations of the local government board.

3 The itemization, form and arrangement of the budget shall be such  
4 as to facilitate the exercise of the comptroller function.

5 b. The budget shall consist of a tabulated statement of:

6 [a.] 1. all anticipated revenues applicable to the expenditures for  
7 which appropriations are made in the budget, and

8 [b.] 2. the appropriations to be made for all purposes for which  
9 such revenues are to be expended.

10 The total of anticipated revenues must equal the total of  
11 appropriations.

12 c. The explanatory statement shall also include an analysis showing  
13 the anticipated revenues and appropriations of a county or municipality  
14 related to solid waste collection, disposal or recycling activities and  
15 the operation of any recycling center or solid waste facility that are  
16 included in the budget. The revenues and appropriations and any  
17 surplus or deficit shall be listed according to the solid waste activity,  
18 operation or solid waste facility, as appropriate, including but not  
19 limited to solid waste collection activities, disposal operations or  
20 recycling activities, payment of environmental investment charges as  
21 defined in section 3 of P.L. c. (C. ) (pending in the  
22 Legislature as this bill) or sanitary landfill facility, transfer station,  
23 recycling center or resource recovery facility operations and shall  
24 include the personnel salaries, benefits and insurance costs; vehicle  
25 operation, maintenance, insurance and purchase costs; and any other  
26 costs associated therewith.

27 (cf: N.J.S.40A:4-22)

28

29 68. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read  
30 as follows:

31 3. In the preparation of its budget a municipality shall limit any  
32 increase in said budget to 5% or the index rate, whichever is less, over  
33 the previous year's final appropriations subject to the following  
34 exceptions:

35 a. (Deleted by amendment, P.L.1990, c.89.)

36 b. Capital expenditures, including appropriations for current capital  
37 expenditures, whether in the capital improvement fund or as a  
38 component of a line item elsewhere in the budget, provided that any  
39 such current capital expenditure would be otherwise bondable under  
40 the requirements of N.J.S.40A:2-21 and 40A:2-22;

41 c. (1) An increase based upon emergency temporary appropriations  
42 made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event  
43 which immediately endangers the health, safety or property of the  
44 residents of the municipality, and over which the governing body had  
45 no control and for which it could not plan and emergency  
46 appropriations made pursuant to N.J.S.40A:4-46. Emergency

1 temporary appropriations and emergency appropriations shall be  
2 approved by at least two-thirds of the governing body and by the  
3 Director of the Division of Local Government Services, and shall not  
4 exceed in the aggregate 3% of the previous year's final current  
5 operating appropriations.

6 (2) (Deleted by amendment, P.L.1990, c.89.)

7 The approval procedure in this subsection shall not apply to  
8 appropriations adopted for a purpose referred to in subsection d. or j.  
9 below;

10 d. All debt service, including that of a Type I school district;

11 e. Upon the approval of the Local Finance Board in the Division  
12 of Local Government Services, amounts required for funding a  
13 preceding year's deficit;

14 f. Amounts reserved for uncollected taxes;

15 g. (Deleted by amendment, P.L.1990, c.89.)

16 h. Expenditure of amounts derived from new or increased  
17 construction, housing, health or fire safety inspection or other service  
18 fees imposed by State law, rule or regulation or by local ordinance;

19 i. Any amount approved by any referendum;

20 j. Amounts required to be paid pursuant to (1) any contract with  
21 respect to use, service or provision of any project, facility or public  
22 improvement for water, sewerage, solid waste collection or solid  
23 waste disposal, including payment of environmental investment  
24 charges as defined in section 3 of P.L. , c. (C. )(pending in  
25 the Legislature as this bill), parking, senior citizen housing or any  
26 similar purpose, or payments on account of debt service therefor,  
27 between a municipality and any other municipality, county, school or  
28 other district, agency, authority, commission, instrumentality, public  
29 corporation, body corporate and politic or political subdivision of this  
30 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
31 through 13:17-76) by a constituent municipality to the intermunicipal  
32 account; (3) any lease of a facility owned by a county improvement  
33 authority when the lease payment represents the proportionate amount  
34 necessary to amortize the debt incurred by the authority in providing  
35 the facility which is leased, in whole or in part; and (4) any  
36 repayments under a loan agreement entered into in accordance with  
37 the provisions of section 5 of P.L.1992, c.89.

38 k. (Deleted by amendment, P.L.1987, c.74.)

39 l. Appropriations of federal, county, independent authority or State  
40 funds, or by grants from private parties or nonprofit organizations for  
41 a specific purpose, and amounts received or to be received from such  
42 sources in reimbursement for local expenditures. If a municipality  
43 provides matching funds in order to receive the federal, county,  
44 independent authority or State funds, or the grants from private parties  
45 or nonprofit organizations for a specific purpose, the amount of the  
46 match which is required by law or agreement to be provided by the

- 1 municipality shall be excepted;
- 2 m. (Deleted by amendment, P.L.1987, c.74.)
- 3 n. (Deleted by amendment, P.L.1987, c.74.)
- 4 o. (Deleted by amendment, P.L.1990, c.89.)
- 5 p. (Deleted by amendment, P.L.1987, c.74.)
- 6 q. (Deleted by amendment, P.L.1990, c.89.)
- 7 r. Amounts expended to fund a free public library established
- 8 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 9 s. (Deleted by amendment, P.L.1990, c.89.)
- 10 t. Amounts expended in preparing and implementing a housing
- 11 element and fair share plan pursuant to the provisions of P.L.1985,
- 12 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 13 municipality under a regional contribution agreement pursuant to
- 14 section 12 of that act;
- 15 u. Amounts expended to meet the standards established pursuant
- 16 to the "New Jersey Public Employees' Occupational Safety and Health
- 17 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 18 v. (Deleted by amendment, P.L.1990, c.89.)
- 19 w. Amounts appropriated for expenditures resulting from the
- 20 impact of a hazardous waste facility as described in subsection c. of
- 21 section 32 of P.L.1981, c.279 (C.13:1E-80);
- 22 x. Amounts expended to aid privately owned libraries and reading
- 23 rooms, pursuant to R.S.40:54-35;
- 24 y. (Deleted by amendment, P.L.1990, c.89.)
- 25 z. (Deleted by amendment, P.L.1990, c.89.)
- 26 aa. Extraordinary expenses, approved by the Local Finance Board,
- 27 required for the implementation of an interlocal services agreement;
- 28 bb. Any expenditure mandated as a result of a natural disaster, civil
- 29 disturbance or other emergency that is specifically authorized pursuant
- 30 to a declaration of an emergency by the President of the United States
- 31 or by the Governor;
- 32 cc. Expenditures for the cost of services mandated by any order of
- 33 court, by any federal or State statute, or by administrative rule,
- 34 directive, order, or other legally binding device issued by a State
- 35 agency which has identified such cost as mandated expenditures on
- 36 certification to the Local Finance Board by the State agency;
- 37 dd. Expenditures of amounts actually realized in the local budget
- 38 year from the sale of municipal assets if appropriated for non-recurring
- 39 purposes or otherwise approved by the director;
- 40 ee. Any local unit which is determined to be experiencing fiscal
- 41 distress pursuant to the provisions of P.L.1987, c.75
- 42 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
- 43 municipality" as defined in section 3 of P.L.1987, c.75
- 44 (C.52:27D-118.26), and which has available surplus pursuant to the
- 45 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
- 46 seq.), may appropriate and expend an amount of that surplus approved

1 by the director and the Local Finance Board as an exception to the  
2 spending limitation. Any determination approving the appropriation  
3 and expenditure of surplus as an exception to the spending limitations  
4 shall be based upon:

- 5 1) the local unit's revenue needs for the current local budget year  
6 and its revenue raising capacity;
- 7 2) the intended actions of the governing body of the local unit to  
8 meet the local unit's revenue needs;
- 9 3) the intended actions of the governing body of the local unit to  
10 expand its revenue generating capacity for subsequent local budget  
11 years;
- 12 4) the local unit's ability to demonstrate the source and existence  
13 of sufficient surplus as would be prudent to appropriate as an  
14 exception to the spending limitations to meet the operating expenses  
15 for the local unit's current budget year; and
- 16 5) the impact of utilization of surplus upon succeeding budgets of  
17 the local unit;

18 ff. Amounts expended for the staffing and operation of the  
19 municipal court;

20 gg. Amounts appropriated for the cost of administering a joint  
21 insurance fund established pursuant to subsection b. of section 1 of  
22 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
23 claims payments by local member units;

24 hh. Amounts appropriated for the cost of implementing an  
25 estimated tax billing system and the issuance of tax bills thereunder  
26 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

27 ii. Any expenditures for the collection or disposition of designated  
28 recyclable materials, or the procurement of recycling services made by  
29 a municipality pursuant to the provisions of the "New Jersey Statewide  
30 Mandatory Source Separation and Recycling Act," P.L.1987, c.102  
31 (C.13:1E-99.11 et al.); any expenditures of amounts received by a  
32 municipality pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96);  
33 or any revenues received by a municipality from the sale of recyclable  
34 materials and expended for the collection or disposition of designated  
35 recyclable materials.

36 (cf: P.L.1994, c.72, s.6)

1       69. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read  
2 as follows:

3       4. In the preparation of its budget, a county may not increase the  
4 county tax levy to be apportioned among its constituent municipalities  
5 in excess of 5% or the index rate, whichever is less, of the previous  
6 year's county tax levy, subject to the following exceptions:

7       a. The amount of revenue generated by the increase in valuations  
8 within the county, based solely on applying the preceding year's county  
9 tax rate to the apportionment valuation of new construction or  
10 improvements within the county, and such increase shall be levied in  
11 direct proportion to said valuation;

12       b. Capital expenditures, including appropriations for current capital  
13 expenditures, whether in the capital improvement fund or as a  
14 component of a line item elsewhere in the budget, provided that any  
15 such current capital expenditures would be otherwise bondable under  
16 the requirements of N.J.S.40A:2-21 and 40A:2-22;

17       c. (1) An increase based upon emergency temporary appropriations  
18 made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event  
19 which immediately endangers the health, safety or property of the  
20 residents of the county, and over which the governing body had no  
21 control and for which it could not plan and emergency appropriations  
22 made pursuant to N.J.S.40A:4-46. Emergency temporary  
23 appropriations and emergency appropriations shall be approved by at  
24 least two-thirds of the governing body and by the Director of the  
25 Division of Local Government Services, and shall not exceed in the  
26 aggregate 3% of the previous year's final current operating  
27 appropriations.

28       (2) (Deleted by amendment, P.L.1990, c.89.)

29       The approval procedure in this subsection shall not apply to  
30 appropriations adopted for a purpose referred to in subsection d. or f.  
31 below;

32       d. All debt service;

33       e. (Deleted by amendment, P.L.1990, c.89.)

34       f. Amounts required to be paid pursuant to (1) any contract with  
35 respect to use, service or provision of any project, facility or public  
36 improvement for water, sewerage, solid waste collection or solid  
37 waste disposal, including payment of environmental investment  
38 charges as defined in section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (pending in  
39 the Legislature as this bill), parking, senior citizen housing or any  
40 similar purpose, or payments on account of debt service therefor,  
41 between a county and any other county, municipality, school or other  
42 district, agency, authority, commission, instrumentality, public  
43 corporation, body corporate and politic or political subdivision of this  
44 State; and (2) any lease of a facility owned by a county improvement  
45 authority when the lease payment represents the proportionate amount  
46 necessary to amortize the debt incurred by the authority in providing

- 1 the facility which is leased, in whole or in part;
- 2 g. That portion of the county tax levy which represents funding to  
3 participate in any federal or State aid program and amounts received  
4 or to be received from federal, State or other funds in reimbursement  
5 for local expenditures. If a county provides matching funds in order to  
6 receive the federal or State or other funds, only the amount of the  
7 match which is required by law or agreement to be provided by the  
8 county shall be excepted;
- 9 h. (Deleted by amendment, P.L.1987, c.74.)
- 10 i. (Deleted by amendment, P.L.1990, c.89.)
- 11 j. (Deleted by amendment, P.L.1990, c.89.)
- 12 k. (Deleted by amendment, P.L.1990, c.89.)
- 13 l. Amounts expended to meet the standards established pursuant to  
14 the "New Jersey Public Employees' Occupational Safety and Health  
15 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 16 m. (Deleted by amendment, P.L.1990, c.89.)
- 17 n. (Deleted by amendment, P.L.1990, c.89.)
- 18 o. (Deleted by amendment, P.L.1990, c.89.)
- 19 p. Extraordinary expenses, approved by the Local Finance Board,  
20 required for the implementation of an interlocal services agreement;
- 21 q. Any expenditure mandated as a result of a natural disaster, civil  
22 disturbance or other emergency that is specifically authorized pursuant  
23 to a declaration of an emergency by the President of the United States  
24 or by the Governor;
- 25 r. Expenditures for the cost of services mandated by any order of  
26 court, by any federal or State statute, or by administrative rule,  
27 directive, order, or other legally binding device issued by a State  
28 agency which has identified such cost as mandated expenditures on  
29 certification to the Local Finance Board by the State agency;
- 30 s. That portion of the county tax levy which represents funding to  
31 a county college in excess of the county tax levy required to fund the  
32 county college in local budget year 1992;
- 33 t. Amounts appropriated for the cost of administering a joint  
34 insurance fund established pursuant to subsection b. of section 1 of  
35 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
36 claims payments by local member units;
- 37 u. Expenditures for the administration of general public assistance  
38 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 39 v. Any expenditures for the collection or disposition of designated  
40 recyclable materials, or the procurement of markets or recycling  
41 services made by a county pursuant to the provisions of the "New  
42 Jersey Statewide Mandatory Source Separation and Recycling Act,"  
43 P.L.1987, c.102 (C.13:1E-99.11 et al.).  
44 (cf: P.L.1995, c.259, s.27)
- 45
- 46 69.1. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to

1 read as follows:

2 13. Any specifications for an acquisition under [this act] the  
3 provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), whether by  
4 purchase, contract or agreement, shall be drafted in a manner to  
5 encourage free, open and competitive bidding. In particular, no  
6 specifications under [this act] the provisions of P.L.1971, c.198  
7 (C.40A:11-1 et seq.) may:

8 (a) Require any standard, restriction, condition or limitation not  
9 directly related to the purpose, function or activity for which the  
10 purchase, contract or agreement is made; or

11 (b) Require that any bidder be a resident of, or that [his] the  
12 bidder's place of business be located in, the county or municipality in  
13 which the purchase will be made or the contract or agreement  
14 performed, unless the physical proximity of the bidder is requisite to  
15 the efficient and economical purchase or performance of the contract  
16 or agreement; except that no specification for a contract for the  
17 collection [and] or disposal of municipal solid waste shall require any  
18 bidder to be a resident of, or that [his] the bidder's place of business  
19 be located in, the state, county or municipality in which the contract  
20 will be performed; or

21 (c) Discriminate on the basis of race, religion, sex, national origin;  
22 or

23 (d) Require, with regard to any purchase, contract or agreement,  
24 the furnishing of any "brand name," but may in all cases require "brand  
25 name or equivalent," except that if the materials to be supplied or  
26 purchased are patented or copyrighted, such materials or supplies may  
27 be purchased by specification in any case in which the ordinance or  
28 resolution authorizing the purchase, contract, sale or agreement so  
29 indicates, and the special need for such patented or copyrighted  
30 materials or supplies is directly related to the performance, completion  
31 or undertaking of the purpose for which the purchase, contract or  
32 agreement is made; or

33 (e) Fail to include any option for renewal, extension, or release  
34 which the contracting unit may intend to exercise or require; or any  
35 terms and conditions necessary for the performance of any extra work;  
36 or fail to disclose any matter necessary to the substantial performance  
37 of the contract or agreement.

38 Any specification adopted by the governing body, which knowingly  
39 excludes prospective bidders by reason of the impossibility of  
40 performance, bidding or qualification by any but one bidder, except as  
41 provided herein, shall be null and void and of no effect and subject  
42 purchase, contract or agreement shall be readvertised, and the original  
43 purchase, contract or agreement shall be set aside by the governing  
44 body.

45 Any specification adopted by the governing body for a contract for  
46 the collection [and] or disposal of municipal solid waste shall conform

1 to the uniform bid specifications for municipal solid waste collection  
2 contracts established pursuant to section 22 of P.L.1991, c.381  
3 (C.48:13A-7.22).

4 Any specification adopted by the governing body may include an  
5 item for the cost, which shall be paid by the contractor, of creating a  
6 file to maintain the notices of the delivery of labor or materials  
7 required by N.J.S.2A:44-128.

8 (cf: P.L.1996, c.81, s.7)

9

10 70. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to  
11 read as follows:

12 15. All purchases, contracts or agreements for the performing of  
13 work or the furnishing of materials, supplies or services shall be made  
14 for a period not to exceed 24 consecutive months, except that  
15 contracts for professional services pursuant to subparagraph (i) of  
16 paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198  
17 (C.40A:11-5) shall be made for a period not to exceed 12 consecutive  
18 months. Contracts or agreements may be entered into for longer  
19 periods of time as follows:

20 (1) Supplying of:

21 (a) (Deleted by amendment, P.L.1996, c.113.)

22 (b) (Deleted by amendment, P.L.1996, c.113.)

23 (c) Thermal energy produced by a cogeneration facility, for use for  
24 heating or air conditioning or both, for any term not exceeding 40  
25 years, when the contract is approved by the Board of Public Utilities.  
26 For the purposes of this paragraph, "cogeneration" means the  
27 simultaneous production in one facility of electric power and other  
28 forms of useful energy such as heating or process steam;

29 (2) (Deleted by amendment, P.L.1977, c.53.)

30 (3) The collection [and] or disposal of municipal solid waste, the  
31 collection and disposition of recyclable material, or the disposal of  
32 sewage sludge, for any term not exceeding in the aggregate,  
33 [five] 40 years;

34 (4) The collection [and] or recycling of methane gas from a  
35 sanitary landfill facility, for any term not exceeding 25 years, when  
36 such contract is in conformance with a district solid waste  
37 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et  
38 seq.), and with the approval of the Division of Local Government  
39 Services in the Department of Community Affairs and the Department  
40 of Environmental Protection. The contracting unit shall award the  
41 contract to the highest responsible bidder, notwithstanding that the  
42 contract price may be in excess of the amount of any necessarily  
43 related administrative expenses; except that if the contract requires the  
44 contracting unit to expend funds only, the contracting unit shall award  
45 the contract to the lowest responsible bidder. The approval by the  
46 Division of Local Government Services of public bidding requirements

- 1 shall not be required for those contracts exempted therefrom pursuant  
2 to section 5 of P.L.1971, c.198 (C.40A:11-5);
- 3 (5) Data processing service, for any term of not more than three  
4 years;
- 5 (6) Insurance, for any term of not more than three years;
- 6 (7) Leasing or servicing of automobiles, motor vehicles, machinery  
7 and equipment of every nature and kind, for a period not to exceed  
8 three years; provided, however, such contracts shall be entered into  
9 only subject to and in accordance with the rules and regulations  
10 promulgated by the Director of the Division of Local Government  
11 Services of the Department of Community Affairs;
- 12 (8) The supplying of any product or the rendering of any service  
13 by a telephone company which is subject to the jurisdiction of the  
14 Board of Public Utilities for a term not exceeding five years;
- 15 (9) Any single project for the construction, reconstruction or  
16 rehabilitation of any public building, structure or facility, or any public  
17 works project, including the retention of the services of any architect  
18 or engineer in connection therewith, for the length of time authorized  
19 and necessary for the completion of the actual construction;
- 20 (10) The providing of food services for any term not exceeding  
21 three years;
- 22 (11) On-site inspections undertaken by private agencies pursuant  
23 to the "State Uniform Construction Code Act," P.L.1975, c.217  
24 (C.52:27D-119 et seq.) for any term of not more than three years;
- 25 (12) The performance of work or services or the furnishing of  
26 materials or supplies for the purpose of conserving energy in buildings  
27 owned by, or operations conducted by, the contracting unit, the entire  
28 price of which to be established as a percentage of the resultant  
29 savings in energy costs, for a term not to exceed 10 years; provided,  
30 however, that such contracts shall be entered into only subject to and  
31 in accordance with rules and regulations promulgated by the  
32 Department of Environmental Protection establishing a methodology  
33 for computing energy cost savings;
- 34 (13) The performance of work or services or the furnishing of  
35 materials or supplies for the purpose of elevator maintenance for any  
36 term not exceeding three years;
- 37 (14) Leasing or servicing of electronic communications equipment  
38 for a period not to exceed five years; provided, however, such contract  
39 shall be entered into only subject to and in accordance with the rules  
40 and regulations promulgated by the Director of the Division of Local  
41 Government Services of the Department of Community Affairs;
- 42 (15) Leasing of motor vehicles, machinery and other equipment  
43 primarily used to fight fires, for a term not to exceed seven years,  
44 when the contract includes an option to purchase, subject to and in  
45 accordance with rules and regulations promulgated by the Director of  
46 the Division of Local Government Services of the Department of

1 Community Affairs;

2 (16) The provision of water supply services or the designing,  
3 financing, construction, operation, or maintenance, or any combination  
4 thereof, of a water supply facility, or any component part or parts  
5 thereof, including a water filtration system, for a period not to exceed  
6 40 years, when the contract for these services is approved by the  
7 Division of Local Government Services in the Department of  
8 Community Affairs, the Board of Public Utilities, and the Department  
9 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et  
10 al.), except for those contracts otherwise exempted pursuant to  
11 subsection (30), (31), (34) or (35) of this section. For the purposes  
12 of this subsection, "water supply services" means any service provided  
13 by a water supply facility; "water filtration system" means any  
14 equipment, plants, structures, machinery, apparatus, or land, or any  
15 combination thereof, acquired, used, constructed, rehabilitated, or  
16 operated for the collection, impoundment, storage, improvement,  
17 filtration, or other treatment of drinking water for the purposes of  
18 purifying and enhancing water quality and insuring its potability prior  
19 to the distribution of the drinking water to the general public for  
20 human consumption, including plants and works, and other personal  
21 property and appurtenances necessary for their use or operation; and  
22 "water supply facility" means and refers to the real property and the  
23 plants, structures, interconnections between existing water supply  
24 facilities, machinery and equipment and other property, real, personal  
25 and mixed, acquired, constructed or operated, or to be acquired,  
26 constructed or operated, in whole or in part by or on behalf of a  
27 political subdivision of the State or any agency thereof, for the  
28 purpose of augmenting the natural water resources of the State and  
29 making available an increased supply of water for all uses, or of  
30 conserving existing water resources, and any and all appurtenances  
31 necessary, useful or convenient for the collecting, impounding, storing,  
32 improving, treating, filtering, conserving or transmitting of water and  
33 for the preservation and protection of these resources and facilities and  
34 providing for the conservation and development of future water supply  
35 resources;

36 (17) The provision of resource recovery services by a qualified  
37 vendor, the disposal of the solid waste delivered for disposal which  
38 cannot be processed by a resource recovery facility or the residual ash  
39 generated at a resource recovery facility, including hazardous waste  
40 and recovered metals and other materials for reuse, or the design,  
41 financing, construction, operation or maintenance of a resource  
42 recovery facility for a period not to exceed 40 years when the contract  
43 is approved by the Division of Local Government Services in the  
44 Department of Community Affairs, and the Department of  
45 Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et  
46 al.); and when the resource recovery facility is in conformance with a

1 district solid waste management plan approved pursuant to P.L.1970,  
2 c.39 (C.13:1E-1 et seq.). For the purposes of this subsection,  
3 "resource recovery facility" means a solid waste facility constructed  
4 and operated for the incineration of solid waste for energy production  
5 and the recovery of metals and other materials for reuse; or a  
6 mechanized composting facility, or any other facility constructed or  
7 operated for the collection, separation, recycling, and recovery of  
8 metals, glass, paper, and other materials for reuse or for energy  
9 production; and "residual ash" means the bottom ash, fly ash, or any  
10 combination thereof, resulting from the combustion of solid waste at  
11 a resource recovery facility;

12 (18) The sale of electricity or thermal energy, or both, produced by  
13 a resource recovery facility for a period not to exceed 40 years when  
14 the contract is approved by the Board of Public Utilities, and when the  
15 resource recovery facility is in conformance with a district solid waste  
16 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et  
17 seq.). For the purposes of this subsection, "resource recovery facility"  
18 means a solid waste facility constructed and operated for the  
19 incineration of solid waste for energy production and the recovery of  
20 metals and other materials for reuse; or a mechanized composting  
21 facility, or any other facility constructed or operated for the collection,  
22 separation, recycling, and recovery of metals, glass, paper, and other  
23 materials for reuse or for energy production;

24 (19) The provision of wastewater treatment services or the  
25 designing, financing, construction, operation, or maintenance, or any  
26 combination thereof, of a wastewater treatment system, or any  
27 component part or parts thereof, for a period not to exceed 40 years,  
28 when the contract for these services is approved by the Division of  
29 Local Government Services in the Department of Community Affairs  
30 and the Department of Environmental Protection pursuant to  
31 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise  
32 exempted pursuant to subsection (36) of this section. For the purposes  
33 of this subsection, "wastewater treatment services" means any services  
34 provided by a wastewater treatment system, and "wastewater  
35 treatment system" means equipment, plants, structures, machinery,  
36 apparatus, or land, or any combination thereof, acquired, used,  
37 constructed, or operated for the storage, collection, reduction,  
38 recycling, reclamation, disposal, separation, or other treatment of  
39 wastewater or sewage sludge, or for the final disposal of residues  
40 resulting from the treatment of wastewater, including, but not limited  
41 to, pumping and ventilating stations, facilities, plants and works,  
42 connections, outfall sewers, interceptors, trunk lines, and other  
43 personal property and appurtenances necessary for their operation;

44 (20) The supplying of materials or services for the purpose of  
45 lighting public streets, for a term not to exceed five years, provided  
46 that the rates, fares, tariffs or charges for the supplying of electricity

- 1 for that purpose are approved by the Board of Public Utilities;
- 2 (21) In the case of a contracting unit which is a county or  
3 municipality, the provision of emergency medical services by a hospital  
4 to residents of a municipality or county as appropriate for a term not  
5 to exceed five years;
- 6 (22) Towing and storage contracts, awarded pursuant to paragraph  
7 u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for  
8 any term not exceeding three years;
- 9 (23) Fuel for the purpose of generating electricity for a term not to  
10 exceed eight years;
- 11 (24) The purchase of electricity or administrative or dispatching  
12 services related to the transmission of such electricity, from a public  
13 utility company subject to the jurisdiction of the Board of Public  
14 Utilities, a similar regulatory body of another state, or a federal  
15 regulatory agency, or from a qualifying small power producing facility  
16 or qualifying cogeneration facility, as defined by 16 U.S.C. s.796, by  
17 a contracting unit engaged in the generation of electricity for retail  
18 sale, as of May 24,1991, for a term not to exceed 40 years;
- 19 (25) Basic life support services, for a period not to exceed five  
20 years. For the purposes of this subsection, "basic life support" means  
21 a basic level of prehospital care, which includes but need not be limited  
22 to patient stabilization, airway clearance, cardiopulmonary  
23 resuscitation, hemorrhage control, initial wound care and fracture  
24 stabilization;
- 25 (26) Claims administration services, for any term not to exceed  
26 three years;
- 27 (27) The provision of transportation services to elderly, disabled  
28 or indigent persons for any term of not more than three years. For the  
29 purposes of this subsection, "elderly persons" means persons who are  
30 60 years of age or older. "Disabled persons" means persons of any age  
31 who, by reason of illness, injury, age, congenital malfunction, or other  
32 permanent or temporary incapacity or disability, are unable, without  
33 special facilities or special planning or design to utilize mass  
34 transportation facilities and services as effectively as persons who are  
35 not so affected. "Indigent persons" means persons of any age whose  
36 income does not exceed 100 percent of the poverty level, adjusted for  
37 family size, established and adjusted under section 673(2) of subtitle  
38 B, the "Community Services Block Grant Act," Pub.L.97-35  
39 (42 U.S.C. s.9902 (2));
- 40 (28) The supplying of liquid oxygen or other chemicals, for a term  
41 not to exceed five years, when the contract includes the installation of  
42 tanks or other storage facilities by the supplier, on or near the  
43 premises of the contracting unit;
- 44 (29) The performance of patient care services by contracted  
45 medical staff at county hospitals, correction facilities and long term  
46 care facilities, for any term of not more than three years;

1 (30) The acquisition of an equitable interest in a water supply  
2 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an  
3 agreement entered into pursuant to the "County and Municipal Water  
4 Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into  
5 no later than January 7, 1995, for any term of not more than forty  
6 years;

7 (31) The provision of water supply services or the financing,  
8 construction, operation or maintenance or any combination thereof, of  
9 a water supply facility or any component part or parts thereof, by a  
10 partnership or copartnership established pursuant to a contract  
11 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a  
12 period not to exceed 40 years;

13 (32) Laundry service and the rental, supply and cleaning of  
14 uniforms for any term of not more than three years;

15 (33) The supplying of any product or the rendering of any service,  
16 including consulting services, by a cemetery management company for  
17 the maintenance and preservation of a municipal cemetery operating  
18 pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for  
19 a term not exceeding 15 years;

20 (34) A contract between a public entity and a private firm pursuant  
21 to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water  
22 supply services may be entered into for any term which, when all  
23 optional extension periods are added, may not exceed 40 years;

24 (35) An agreement for the purchase of a supply of water from a  
25 public utility company subject to the jurisdiction of the Board of Public  
26 Utilities in accordance with tariffs and schedules of charges made,  
27 charged or exacted or contracts filed with the Board of Public  
28 Utilities, for any term of not more than 40 years;

29 (36) A contract between a public entity and a private firm or public  
30 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the  
31 provision of wastewater treatment services may be entered into for any  
32 term of not more than 40 years, including all optional extension  
33 periods; and

34 (37) The operation and management of a facility under a license  
35 issued or permit approved by the Department of Environmental  
36 Protection, including a wastewater treatment system or a water supply  
37 or distribution facility, as the case may be, for any term of not more  
38 than seven years. For the purposes of this subsection, "wastewater  
39 treatment system" refers to facilities operated or maintained for the  
40 storage, collection, reduction, disposal, or other treatment of  
41 wastewater or sewage sludge, remediation of groundwater  
42 contamination, stormwater runoff, or the final disposal of residues  
43 resulting from the treatment of wastewater; and "water supply or  
44 distribution facility" refers to facilities operated or maintained for  
45 augmenting the natural water resources of the State, increasing the  
46 supply of water, conserving existing water resources, or distributing

1 water to users.

2 All multiyear leases and contracts entered into pursuant to this  
3 section, except contracts for the leasing or servicing of equipment  
4 supplied by a telephone company which is subject to the jurisdiction  
5 of the Board of Public Utilities, contracts involving the supplying of  
6 electricity for the purpose of lighting public streets and contracts for  
7 thermal energy authorized pursuant to subsection (1) above,  
8 construction contracts authorized pursuant to subsection (9) above,  
9 contracts and agreements for the provision of work or the supplying  
10 of equipment to promote energy conservation authorized pursuant to  
11 subsection (12) above, contracts for water supply services or for a  
12 water supply facility, or any component part or parts thereof  
13 authorized pursuant to subsection (16), (30), (31), (34), (35) or (37)  
14 above, contracts for resource recovery services or a resource recovery  
15 facility authorized pursuant to subsection (17) above, contracts for the  
16 sale of energy produced by a resource recovery facility authorized  
17 pursuant to subsection (18) above, contracts for wastewater treatment  
18 services or for a wastewater treatment system or any component part  
19 or parts thereof authorized pursuant to subsection (19), (36) or (37)  
20 above, and contracts for the purchase of electricity or administrative  
21 or dispatching services related to the transmission of such electricity  
22 authorized pursuant to subsection (24) above, shall contain a clause  
23 making them subject to the availability and appropriation annually of  
24 sufficient funds as may be required to meet the extended obligation, or  
25 contain an annual cancellation clause.

26 The Division of Local Government Services shall adopt and  
27 promulgate rules and regulations concerning the methods of  
28 accounting for all contracts that do not coincide with the fiscal year.  
29 (cf: P.L.1996, c.113, s.19)

30

31 71. Section 1 of P.L.1968, c.173 (C.48:2-59) is amended to read  
32 as follows:

33 1. a. To enable the Board [of Public Utility Commissioners in the  
34 Department] of Public Utilities to better perform its lawful duties  
35 relating to service, classifications to be used, rates and charges to be  
36 made and collected, rules and regulations to be prescribed, and  
37 supervision over all public utilities [and public movers] under its  
38 jurisdiction, the Board of Public [Utility Commissioners] Utilities  
39 shall annually make an assessment against each public utility [and  
40 public mover].

41 b. After December 31, 1996, the Department of Environmental  
42 Protection shall not make an assessment against any person engaging  
43 in the business of solid waste collection or solid waste disposal  
44 pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.).

45 The provisions of this subsection shall not affect any obligation to  
46 pay an assessment made by the Department of Environmental

1 Protection prior to December 31, 1996, nor shall these provisions  
2 affect the legal authority of the Department of Environmental  
3 Protection, which assumed regulatory authority and jurisdiction over  
4 the public utility aspects of solid waste collection and solid waste  
5 disposal from the Board of Public Utilities pursuant to Reorganization  
6 Plan No. 002-1991, effective on August 19, 1991, and Reorganization  
7 Plan No. 001-1994, effective on July 4, 1994, under subsection a. of  
8 this section or section 2 of P.L.1968, c.173 (C.48:2-60), to make an  
9 assessment against any person engaging in the business of solid waste  
10 collection or solid waste disposal prior to that date.

11 c. The provisions of subsection b. of this section shall not affect the  
12 legal authority of the State Treasurer under section 12 of P.L.1968,  
13 c.173 (C.48:2-70) to collect the amount stated to be due, including  
14 any interest which may accrue by virtue of the neglect or refusal of the  
15 public utility to pay an assessment made by the Department of  
16 Environmental Protection prior to December 31, 1996, nor shall these  
17 provisions invalidate or affect any proceeding for the enforcement  
18 thereof.

19 (cf: P.L.1972, c.36, s.1)

20

21 72. R.S.48:3-3 is amended to read as follows:

22 48:3-3. [a.] No public utility shall provide or maintain any service  
23 that is unsafe, improper or inadequate, or withhold or refuse any  
24 service which reasonably can be demanded or furnished when ordered  
25 by the board.

26 [b. The board, upon receipt of a notification of refusal to provide  
27 solid waste collection services within a municipality pursuant to  
28 section 2 of P.L.1991, c.170 (C.40:66-5.2), may order the solid waste  
29 collector to provide these services in accordance with the provisions  
30 of R.S.48:2-23.]

31 (cf: P.L.1991, c.170, s.5)

32

33 73. R.S.48:3-7 is amended to read as follows:

34 48:3-7. a. No public utility shall, without the approval of the board,  
35 sell, lease, mortgage or otherwise dispose of or encumber its property,  
36 franchises, privileges or rights, or any part thereof; or merge or  
37 consolidate its property, franchises, privileges or rights, or any part  
38 thereof, with that of any other public utility.

39 Where, by the proposed sale, lease or other disposition of all or a  
40 substantial portion of its property, any franchise or franchises,  
41 privileges or rights, or any part thereof or merger or consolidation  
42 thereof as set forth herein, it appears that the public utility or a wholly  
43 owned subsidiary thereof may be unable to fulfill its obligation to any  
44 employees thereof with respect to pension benefits previously enjoyed,  
45 whether vested or contingent, the board shall not grant its approval  
46 unless he public utility seeking the board's approval for such sale, lease

1 or other disposition assumes such responsibility as will be sufficient to  
2 provide that all such obligations to employees will be satisfied as they  
3 become due.

4 Every sale, mortgage, lease, disposition, encumbrance, merger or  
5 consolidation made in violation of this section shall be void.

6 Nothing herein shall prevent the sale, lease or other disposition by  
7 any public utility of any of its property in the ordinary course of  
8 business, nor require the approval of the board to any grant,  
9 conveyance or release of any property or interest therein heretofore  
10 made or hereafter to be made by any public utility to the United States,  
11 State or any county or municipality or any agency, authority or  
12 subdivision thereof, for public use.

13 The approval of the board shall not be required to validate the title  
14 of the United States, State or any county or municipality or any  
15 agency, authority or subdivision thereof, to any lands or interest  
16 therein heretofore condemned or hereafter to be condemned by the  
17 United States, State or any county or municipality or any agency,  
18 authority or subdivision thereof for public use.

19 b. Notwithstanding any law, rule, regulation or order to the  
20 contrary, an autobus public utility regulated by and subject to the  
21 provisions of Title 48 of the Revised Statutes may, without the  
22 approval of the Department of Transportation, sell, lease, mortgage or  
23 otherwise dispose of or encumber its property, or any part thereof,  
24 except that approval of the Department of Transportation shall be  
25 required for the following:

26 (1) the sale of 60% or more of its property within a 12-month  
27 period;

28 (2) a merger or consolidation of its property, franchises, privileges  
29 or rights; or

30 (3) the sale of any of its franchises, privileges or rights.

31 Notice of the sale, purchase or lease of any autobus or other vehicle  
32 subject to regulation under Title 48 of the Revised Statutes shall be  
33 provided to the Department of Transportation as the department shall  
34 require.

35 c. [Except as otherwise provided in subsection e. of this section,  
36 no solid waste collector as defined in section 3 of P.L.1970, c.40  
37 (C.48:13A-3) shall, without the approval of the board:

38 (1) sell, lease, mortgage or otherwise dispose of or encumber its  
39 property, including customer lists; or

40 (2) merge or consolidate its property, including customer lists, with  
41 that of any other person or business concern, whether or not that  
42 person or business concern is engaged in the business of solid waste  
43 collection or solid waste disposal pursuant to the provisions of  
44 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et  
45 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.]

46 (Deleted by amendment, P.L. . . , c. .)

1 d. [Any solid waste collector seeking approval for any transaction  
2 enumerated in subsection c. of this section shall file with the board, on  
3 forms and in a manner prescribed by the board, a notice of intent at  
4 least 30 days prior to the completion of the transaction.

5 (1) The board shall promptly review all notices filed pursuant to  
6 this subsection. The board may, within 30 days of receipt of a notice  
7 of intent, request that the solid waste collector submit additional  
8 information to assist in its review if it deems that such information is  
9 necessary. If no such request is made, the transaction shall be deemed  
10 to have been approved. In the event that additional information is  
11 requested, the board shall outline, in writing, why it deems such  
12 information necessary to make an informed decision on the impact of  
13 the transaction on effective competition.

14 (2) The board shall approve or deny a transaction within 60 days  
15 of receipt of all requested information. In the event that the board fails  
16 to take action on a transaction within the 60-day period specified  
17 herein, then the transaction shall be deemed to have been approved.

18 (3) The board shall approve a transaction unless it makes a  
19 determination pursuant to the provisions of section 19 of P.L.1991,  
20 c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage,  
21 disposition, encumbrance, merger or consolidation would result in a  
22 lack of effective competition.

23 The Board of Public Utilities shall prescribe and provide upon  
24 request all necessary forms for the implementation of the notification  
25 requirements of this subsection.] (Deleted by amendment, P.L. \_\_\_\_,  
26 c. \_\_)

27 e. [(1) Any solid waste collector may, without the approval of the  
28 board, purchase, finance or lease any equipment, including collection  
29 or haulage vehicles.

30 (2) Any solid waste collector may, without the approval of the  
31 board, sell or otherwise dispose of its collection or haulage vehicles;  
32 except that no solid waste collector shall, without the approval of the  
33 board in the manner provided in subsection d. of this section, sell or  
34 dispose of 33% or more of its collection or haulage vehicles within a  
35 12-month period.

36 As used in this section, "business concern" means any corporation,  
37 association, firm, partnership, sole proprietorship, trust or other form  
38 of commercial organization.] (Deleted by amendment, P.L. \_\_\_\_, c. \_\_)  
39 (cf: P.L.1991, c.381, s.35)

40

41 74. Section 40 of P.L.1985, c.38 (C.48:13A-5.1) is amended to  
42 read as follows:

43 40. Any municipality within which is located, pursuant to an  
44 adopted and approved district solid waste management plan, a  
45 resource recovery facility as defined in section 3 of P.L. \_\_\_\_, c. \_\_  
46 (C. \_\_\_\_\_)(pending in the Legislature as this bill), shall be entitled to

1 an annual economic benefit in consideration for the use of land within  
2 its municipal boundaries as the location of a resource recovery facility.

3 The annual economic benefit shall be not less than the equivalent of  
4 \$1.00 per ton of all solid waste accepted for disposal at the resource  
5 recovery facility during the 1997 calendar year and each year  
6 thereafter.

7 The [person holding the franchise for a resource recovery facility  
8 pursuant to the provisions of section 6 of P.L.1970, c.40  
9 (C.48:13A-5)] owner or operator of the resource recovery facility  
10 shall, no later than January 25, 1998 and on or before January 25 of  
11 each year thereafter, file with the chief fiscal officer of the municipality  
12 wherein the resource recovery facility is located a statement, verified  
13 by oath, showing the total number of tons of solid waste accepted for  
14 disposal at the resource recovery facility during the preceding calendar  
15 year, and shall at the time pay to the chief fiscal officer a sum equal to  
16 at least \$1.00 per ton of all solid waste accepted for disposal at the  
17 resource recovery facility.

18 A municipality may negotiate with the [person holding the franchise  
19 for a] owner or operator of the resource recovery facility [or the  
20 contracting unit, or both as the case may be,] for an amount exceeding  
21 the amount of the annual economic benefit provided for in this section.  
22 (cf: P.L.1985, c.38, s.40)

23

24 75. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to read  
25 as follows:

26 7. a. [No person shall engage, or be permitted to engage, in the  
27 business of solid waste collection or solid waste disposal until found  
28 by the board to be qualified by experience, training or education to  
29 engage in such business, is able to furnish proof of financial  
30 responsibility, and unless that person holds a certificate of public  
31 convenience and necessity issued by the Board of Public Utilities.

32 (1) No certificate shall be issued for solid waste collection or solid  
33 waste disposal until the person proposing to engage in solid waste  
34 collection or solid waste disposal, as the case may be, has been  
35 registered with and approved by the Department of Environmental  
36 Protection as provided by section 5 of P.L.1970, c.39 (C.13:1E-5).

37 (2) No certificate of public convenience and necessity shall be  
38 issued by the Board of Public Utilities to any person who has been  
39 denied approval of a license under the provisions of P.L.1983, c.392  
40 (C.13:1E-126 et seq.), or whose license has been revoked by the  
41 Department of Environmental Protection, as the case may be.]  
42 (Deleted by amendment, P.L. , c. )

43 b. No person shall transport regulated medical waste until found by  
44 the [Board of Public Utilities] Department of Environmental  
45 Protection to be qualified by experience, training or education to  
46 engage in such business, and is able to furnish proof of financial

1 responsibility[, and holds a certificate of public convenience and  
2 necessity issued by the board. No certificate shall be issued for the  
3 transportation of regulated medical waste until the proposed  
4 transporter has obtained a registration statement required by section  
5 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed under  
6 section 9 of P.L.1989, c.34 (C.13:1E-48.9)].

7 c. Notwithstanding the provisions of subsection b. of this section,  
8 the [board] department shall not have jurisdiction over rates or  
9 charges for the transportation of regulated medical waste.

10 (cf: P.L.1991, c.381, s.28)

11

12 76. Section 15 of P.L.1991, c.381 (C.48:13A-7.15) is amended to  
13 read as follows:

14 15. The rates or charges imposed by solid waste collectors, or fees,  
15 rates or charges for solid waste collection services provided by  
16 persons engaged in the business of solid waste collection in this State  
17 shall not be subject to the regulation of the Board of Public Utilities,  
18 [except as provided in section 20 of P.L.1991, c.381 (C.48:13A-7.20).  
19 Nothing herein provided shall be construed to limit the authority of the  
20 board with respect to the supervision of the solid waste collection  
21 industry] the Department of Environmental Protection or any other  
22 State agency.

23 (cf: P.L.1991, c.381, s.15)

24

25 77. Section 21 of P.L.1991, c.381 (C.48:13A-7.21) is amended to  
26 read as follows:

27 21. a. There is created in the [Board of Public Utilities]  
28 Department of Environmental Protection a special nonlapsing fund to  
29 be known as the "Solid Waste Enforcement Fund." All monies from  
30 penalties collected by the board pursuant to section 13 of P.L.1970,  
31 c.40 (C.48:13A-12) shall be deposited in the fund.

32 b. Unless otherwise expressly provided by the specific  
33 appropriation thereof by the Legislature, monies in the fund shall be  
34 utilized exclusively by the [Division of Solid Waste in the Board of  
35 Public Utilities] department for enforcement and implementation of the  
36 provisions of P.L.1970, c.40 (C.48:13A-1 et seq.) and P.L.1991, c.381  
37 (C.48:13A-7.1 et al.).

38 c. On or after June 30, 1997 all monies accruing to the fund, and  
39 any interest earned on the management of monies in the fund, shall be  
40 paid into the General Fund.

41 (cf: P.L.1991, c.381, s.21)

42

43 78. Section 22 of P.L.1991, c.381 (C.48:13A-7.22) is amended to  
44 read as follows:

45 22. The [Board of Public Utilities] Department of Environmental  
46 Protection shall establish, in rules and regulations adopted pursuant to

1 the provisions of the "Administrative Procedure Act," P.L.1968, c.410  
2 (C.52:14B-1 et seq.), uniform bid specifications for municipal solid  
3 waste collection contracts.  
4 (cf: P.L.1991, c.381, s.22)

5  
6 79. (New section) The solid waste disposal rates or charges  
7 received at solid waste facilities, or fees, rates or charges for the  
8 disposal of solid waste received by any county, public authority as  
9 defined in section 3 of P.L. , c. (C. )(pending in the  
10 Legislature as this bill) or any other person engaged in the business of  
11 solid waste disposal in this State shall not be subject to the regulation  
12 of the Board of Public Utilities, the Department of Environmental  
13 Protection or any other State agency.

14  
15 80. (New section) a. The provisions of any other law to the  
16 contrary notwithstanding, every public authority or county that owns  
17 or operates a registered solid waste facility, all or any portion of which  
18 has been financed by a zero-interest State loan from the "Resource  
19 Recovery and Solid Waste Disposal Facility Fund" established  
20 pursuant to section 14 of the "Resource Recovery and Solid Waste  
21 Disposal Facility Bond Act of 1985," P.L.1985, c.330, shall be subject  
22 to a five-year moratorium on State solid waste facility loan  
23 repayments, as provided in this section.

24 b. In furtherance of the provisions of P.L. , c.  
25 (C. )(pending in the Legislature as this bill), the provisions of  
26 section 2 of P.L.1985, c.332; section 2 of P.L.1985, c.335; section 2  
27 of P.L.1988, c.84; section 2 of P.L.1988, c.86; section 2 of P.L.1988,  
28 c.88; section 2 of P.L.1988, c.89; section 2 of P.L.1991, c.358; section  
29 2 of P.L.1993, c.284; section 2 of P.L.1993, c.285; section 2 of  
30 P.L.1993, c.352; or section 2 of P.L.1993, c.369, pertaining to the  
31 repayment of loans made from the "Resource Recovery and Solid  
32 Waste Disposal Facility Fund" in accordance with the terms of a  
33 written loan agreement, to the contrary notwithstanding, local  
34 government units shall not be required to make any loan repayments  
35 during the transition from a Statewide solid waste management system  
36 to a market-based system.

37 c. The State Treasurer is authorized to use moneys in the General  
38 Fund to cover the expenditures incurred in implementing the  
39 provisions of this section, subject to the annual appropriation thereof  
40 by the Legislature.

41  
42 81. The following are repealed:

43 Section 2 of P.L.1970, c.39 (C.13:1E-2);  
44 Section 1 of P.L.1984, c.221 (C.13:1E-5.3);  
45 Section 2 of P.L.1981, c.438 (C.13:1E-9.1);  
46 Section 2 of P.L.1990, c.70 (C.13:1E-9.5);

1 Section 18 of P.L.1975, c.326 (C.13:1E-27);  
2 Section 20 of P.L.1975, c.326 (C.13:1E-29);  
3 Sections 29 and 30 of P.L.1975, c.326 (C.13:1E-36 and  
4 13:1E-37);  
5 Section 9 of P.L.1989, c.34 (C.13:1E-48.9);  
6 Section 12 of P.L.1989, c.34 (C.13:1E-48.12);  
7 Section 7 of P.L.1981, c.278 (C.13:1E-98);  
8 Section 5 of P.L.1987, c.102 (C.13:1E-99.15);  
9 Section 9 of P.L.1987, c.102 (C.13:1E-99.17);  
10 Section 11 of P.L.1989, c.151 (C.13:1E-99.21e);  
11 Section 23 of P.L.1987, c.102 (C.13:1E-99.31);  
12 Section 40 of P.L.1987, c.102 (C.13:1E-99.33);  
13 Section 45 of P.L.1987, c.102 (C.13:1E-99.37);  
14 Section 48 of P.L.1987, c.102 (C.13:1E-99.38);  
15 Section 13 of P.L.1981, c.306 (C.13:1E-112);  
16 Sections 2 and 3 of P.L.1983, c.93 (C.13:1E-118 and  
17 13:1E-119);  
18 Section 9 of P.L.1985, c.38 (C.13:1E-144);  
19 Section 11 of P.L.1985, c.38 (C.13:1E-146);  
20 Sections 16 and 17 of P.L.1985, c.38 (C.13:1E-151 and  
21 13:1E-152);  
22 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and  
23 13:1E-166);  
24 Section 1 of P.L.1985, c.368 (C.13:1E-169);  
25 Sections 3 through 7 inclusive of P.L.1985, c.368  
26 (C.13:1E-171 through 13:1E-175);  
27 Section 3 of P.L.1989, c.236 (C.27:2-9);  
28 Section 4 of P.L.1973 c.330 (C.40:37A-101);  
29 Section 5 of P.L.1973 c.330 (C.40:37A-102);  
30 Section 6 of P.L.1973, c.330 (C.40:37A-103);  
31 Section 7 of P.L.1973 c.330 (C.40:37A-104);  
32 Section 8 of P.L.1973 c.330 (C.40:37A-105);  
33 R.S.40:66-2;  
34 R.S.40:66-3;  
35 Sections 1 through 3 inclusive of P.L.1991, c.170  
36 (C.40:66-5.1 through 40:66-5.3);  
37 Section 1 of P.L.1989, c.236 (C.40A:11-16.5);  
38 Sections 1 through 3 inclusive of P.L.1970, c.40  
39 (C.48:13A-1 through 48:13A-3);  
40 Sections 5 and 6 of P.L.1970, c.40 (C.48:13A-4 and  
41 48:13A-5);  
42 Section 1 of P.L.1981, c.221 (C.48:13A-6.1);  
43 Section 2 of P.L.1990, c.113 (C.48:13A-6.2);  
44 Section 1 of P.L.1991, c.35 (C.48:13A-6.3);  
45 Section 8 of P.L.1970, c.40 (C.48:13A-7);  
46 Sections 1 through 4 inclusive of P.L.1991, c.381

1 (C.48:13A-7.1 through 48:13A-7.4);  
2 Section 11 of P.L.1991, c.381 (C.48:13A-7.11);  
3 Section 14 of P.L.1991, c.381 (C.48:13A-7.14);  
4 Sections 16 through 20 inclusive of P.L.1991, c.381  
5 (C.48:13A-7.16 through 48:13A-7.20);  
6 Sections 9 through 14 inclusive of P.L.1970, c.40  
7 (C.48:13A-8 through 48:13A-13); and  
8 Section 2 of P.L.1989, c.236, (C.52:34-13.1).

9  
10 82. This act shall take effect immediately, and section 80 shall  
11 expire 60 months thereafter.

12  
13  
14 STATEMENT

15  
16 In response to the Atlantic Coast decision, which held that New  
17 Jersey's solid waste management system is unconstitutional, this bill  
18 thoroughly revises New Jersey's solid waste collection and disposal  
19 statutes and provides a mechanism for the recovery of the  
20 environmental investment costs incurred by counties and public  
21 authorities in implementing State-mandated district solid waste  
22 management plans. The bill makes numerous changes to existing law  
23 so that the statutes conform to the new, decentralized solid waste  
24 management system established by the bill or resulting from the  
25 consequences of the Atlantic Coast decision.

26  
27 Responsibilities of Municipalities

28  
29 The bill authorizes municipalities to provide for the collection or  
30 disposal of all residential, commercial or institutional solid waste  
31 generated within their municipal boundaries. Any municipality that  
32 prefers to delegate responsibility for these services to the private  
33 sector may entrust responsible solid waste generators to contract with  
34 solid waste collectors for regular (once-a-week) solid waste collection  
35 service on their own.

36 A municipal governing body may establish and operate a municipal  
37 service system or award a publicly-bid solid waste collection contract.  
38 At a minimum, each system must provide regular solid waste  
39 collection service to single-family and multi-family residential housing.  
40 Each system must also allow the owner of any commercial or  
41 institutional establishment located within the boundaries of the  
42 municipality to contract with a solid waste collector for regular solid  
43 waste collection service on an individual basis.

44 A municipal governing body may negotiate a solid waste services  
45 agreement with any public authority or county that owns or operates  
46 a solid waste facility or contract with a private firm for out-of-state

1 disposal services. Responsible solid waste generators would be  
2 allowed to contract for solid waste disposal services on an individual  
3 basis.

4 As a condition of a municipal solid waste collection contract, a  
5 municipality that has negotiated a solid waste services agreement with  
6 a public authority or county would require the solid waste collector to  
7 utilize the county solid waste facility that has been selected by the  
8 municipality.

9

#### 10 Responsibilities of Counties and Public Authorities

11

12 The responsibility for district solid waste management planning is  
13 retained by the counties. The current system whereby the county or  
14 public authority requires each of its constituent municipalities to utilize  
15 county solid waste facilities for the disposal of municipal solid waste  
16 is replaced by a voluntary, market-based system. Public authorities or  
17 counties would offer their constituent municipalities solid waste  
18 disposal services on a contractual basis.

19 Any solid waste services agreement entered into between a  
20 municipality and a public authority or county for the use of a county  
21 solid waste facility must include provisions concerning the solid waste  
22 disposal charges received at the facility, including any portion of the  
23 charges allocated for environmental investment charges.

24 Any solid waste services agreement may include arrangements for  
25 the provision by the public authority or county of optional solid waste  
26 management services, including: (1) solid waste collection; (2) the  
27 collection, processing, disposition or marketing of designated  
28 recyclable materials under the State's mandatory recycling law; or (3)  
29 a district household hazardous waste management program.

30

#### 31 The Recovery of Environmental Investment Costs

32

33 The bill authorizes every public authority or county that has  
34 acquired, constructed or operates a solid waste facility as required by  
35 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
36 seq.) to establish and implement a system to calculate, charge and  
37 collect environmental investment charges as may be necessary to  
38 recover the environmental investment costs associated with  
39 implementing its State-mandated district solid waste management plan.

40 Environmental investment charges could be collected by a public  
41 authority or county as a portion of the tipping fee charged for solid  
42 waste disposal at the county solid waste facility, or in any other  
43 manner reasonably established by the public authority or county,  
44 including as an item in a municipal budget or county budget, or any  
45 combination thereof.

46 The bill authorizes a public authority or county to collect

1 environmental investment charges from any of the following public and  
2 private entities:

3 I. Every solid waste generator included within the jurisdiction of  
4 the public authority or county (from all residential, commercial and  
5 institutional sources of generation), regardless of whether a particular  
6 solid waste generator utilizes the county solid waste facility for solid  
7 waste disposal, through the implementation of a unit charge based  
8 upon: (1) the average annual amount of solid waste generated by a  
9 particular solid waste generator, as measured in tons, during the  
10 previous five years; (2) the average annual amount of solid waste  
11 accepted for disposal at the county solid waste facility from a  
12 particular solid waste generator, as measured in tons, during the  
13 previous five years; or (3) any other criteria reasonably established by  
14 the public authority or county.

15 II. Every constituent municipality that utilizes or has previously  
16 utilized the county solid waste facility and has thereby received the  
17 benefit of the environmental investments, through the implementation  
18 of an assessment against constituent municipalities based upon: (1) the  
19 average annual aggregate amount of solid waste generated within the  
20 boundaries of a particular constituent municipality from all residential,  
21 commercial and institutional sources of generation, as measured in  
22 tons, during the previous five years; (2) the average annual amount of  
23 solid waste accepted for disposal at the county solid waste facility  
24 from all sources of generation within the boundaries of a particular  
25 constituent municipality, as measured in tons, during the previous five  
26 years; or (3) any other criteria reasonably established by the public  
27 authority or county.

28 III. The governing body of the county wherein the county solid  
29 waste facility is located, through the implementation of an assessment  
30 by the public authority against the county based upon: (1) the average  
31 annual aggregate amount of solid waste generated within the  
32 boundaries of the county from all sources of generation, as measured  
33 in tons, during the previous five years; (2) the average annual amount  
34 of solid waste accepted for disposal at the county solid waste facility  
35 from all sources of generation within the boundaries of the county, as  
36 measured in tons, during the previous five years; or (3) any other  
37 criteria reasonably established by the public authority or county.

38 IV. Any other county or public authority that has entered into an  
39 interdistrict agreement with the public authority or county that owns  
40 or operates the county solid waste facility for the acceptance for  
41 disposal of its solid waste, through the implementation of an  
42 assessment against the sending county based upon: (1) the average  
43 annual aggregate amount of solid waste generated within the  
44 boundaries of the sending county from all sources of generation, as  
45 measured in tons, during the previous five years; (2) the average  
46 annual amount of out-of-county solid waste accepted for disposal at

1 the county solid waste facility from all sources of generation within the  
2 boundaries of the sending county, as measured in tons, during the  
3 previous five years; or (3) any other criteria reasonably established by  
4 the public authority or county.

5 A public authority or county may collect environmental investment  
6 charges from any of the aforementioned public or private entities in the  
7 form of a consolidated "tipping fee" comprising both solid waste  
8 disposal charges and environmental investment charges. This combined  
9 tipping fee would be charged to, and collected from, the users at the  
10 county solid waste facility. The operation and maintenance costs  
11 associated with county solid waste facilities may be collected either as  
12 environmental investment charges or as a component of solid waste  
13 disposal charges.

14 The bill authorizes a public authority or county to calculate, charge  
15 and collect differential rates for the disposal of out-of-county solid  
16 waste accepted for disposal at the county solid waste facility from a  
17 sending public authority or county under the terms of an interdistrict  
18 agreement, provided that the sending public authority or county has  
19 voluntarily agreed to the payment of environmental investment  
20 charges.

21 The bill further authorizes any public authority or county to  
22 establish and implement a program for the inspection of all solid waste  
23 collection activities or solid waste disposal operations and a program  
24 to enforce the provisions of the system established for the collection  
25 of environmental investment charges, or the provisions of any  
26 interdistrict agreements, contracts or instruments executed in  
27 connection with the implementation of a district solid waste  
28 management plan or use of any county solid waste facility.

29 Every public authority or county is also authorized to exercise the  
30 enforcement powers conferred on local boards of health or county  
31 health departments pursuant to the provisions of the "County  
32 Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.)  
33 and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise these  
34 powers directly in the manner provided by these acts to local boards  
35 of health or county health departments, for the purposes of enforcing  
36 the system established for the collection of environmental investment  
37 charges.

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#### 39 Deregulation of Solid Waste Disposal Charges

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41 The tipping fees at most of the solid waste facilities developed by  
42 counties or public authorities in New Jersey are expensive relative to  
43 out-of-state disposal facilities. In order to compete successfully for the  
44 required volumes of municipal solid waste, public authorities or  
45 counties that operate solid waste facilities must offer disposal services  
46 to current and future users at the least possible cost. In order to

1 remain competitive and financially viable in the emerging free market  
2 solid waste management system, while continuing to fulfill existing  
3 "put or pay" contractual obligations, counties and public authorities  
4 must have the requisite flexibility and unambiguous legal authority to  
5 reduce the tipping fees at their solid waste facilities virtually at will, as  
6 well as the authority to offer differential rates to attract out-of-county  
7 municipal solid waste streams. To these ends, the existing system of  
8 public utility-style rate regulation of the tipping fees that may be  
9 charged at solid waste facilities is ill-suited. To address this problem,  
10 the bill would provide for the immediate deregulation of all solid waste  
11 facilities and tipping fees in the State.

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#### Other Major Provisions

15 The bill establishes a five-year moratorium on the repayment of  
16 State loans made to public authorities and counties from the "Resource  
17 Recovery and Solid Waste Disposal Facility Bond Act of 1985,"  
18 P.L.1985, c.330, for the development of solid waste facilities, to ease  
19 the financial burden on these local governments during the transition  
20 from a State-run solid waste management system to a market-based  
21 system.

22 The bill amends the "Solid Waste Management Act" to prohibit the  
23 Commissioner of DEP from rejecting or requiring the modification of  
24 any district solid waste management plan amendment providing for the  
25 long-term use of designated out-of-state disposal sites for the disposal  
26 of solid waste generated within the county. This provision addresses  
27 the so-called "self-sufficiency" issue, whereby historically DEP has  
28 required every county to be self-sufficient with respect to the  
29 availability of long-term (10 years or more) solid waste disposal  
30 capacity within its borders.

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35 "Solid Waste Management and Environmental Investment Cost  
36 Recovery Act."